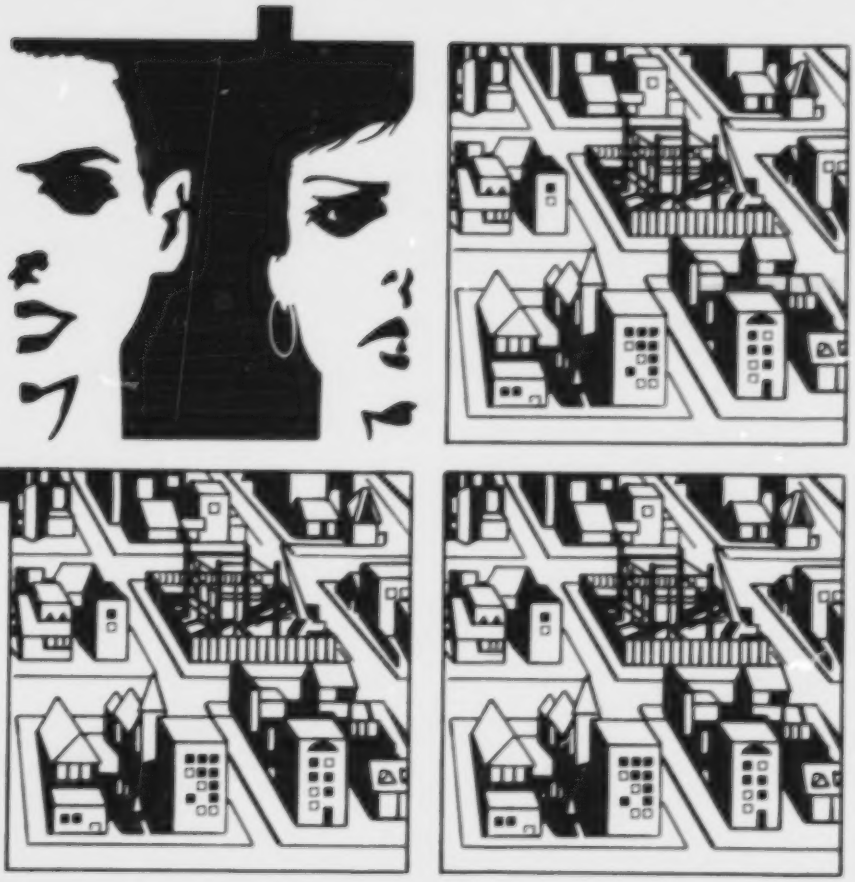
STREET PROSTITUTION

- Assessing the impact of the law
- **Toronto**



Department of Justice Canada
Ministère de la Justice Canada

STREET PROSTITUTION :

ASSESSING THE IMPACT OF THE LAW

TORONTO

Sharon Moyer
The Research Group
and
Peter J. Carrington
University of Waterloo

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CHAPTER I:
INTRODUCTION

It is conventional wisdom that street prostitution became a community problem in Toronto in the late 1970s after the closing of Yonge Street massage parlours. In 1977 the body of a street youth – Emmanual Jacques, a shoeshine boy who worked at Yonge and Dundas Streets – was found on the roof of a nearby massage parlour. The ensuing public uproar resulted in a municipal by-law that enabled police to close the massage parlours that lined Yonge Street for a few blocks north of Dundas. The clean-up of Yonge Street has been widely viewed as the reason for the expansion of prostitution from its relatively narrow confines inside the body rub parlours to the streets.

However, for decades[1] before the Jacques homicide, the Jarvis and Dundas area was a location for prostitution, with women working both in the Warwick Hotel and on surrounding streets. Despite efforts on the part of civic officials to eliminate prostitution in the area, the Warwick was an important venue until it was torn down in the mid-1970s – removing a location for both meeting and taking customers. This section of downtown Toronto, a few blocks east of Yonge and Dundas, has mixed land use: somewhat rundown older buildings housing donut shops and convenience stores share the area with the Family Court, RCMP headquarters and a federal government office building. Very recently, houses on nearby streets were renovated and a few highrise apartments were built on Jarvis itself. Despite these changes, prostitutes continue to work in the area in substantial numbers.

---

[1]There are turn-of-the-century accounts of prostitution in Toronto that mentioned Jarvis Street as a prime location for street prostitution.

Early in the 1970s and probably earlier, women worked in another downtown neighbourhood, about a mile north of Jarvis and Dundas. This became known as "the Track" (or Track I as prostitutes began working other areas). The main corner was Church and Isabella, but women also worked on the side streets between Church and Jarvis and on Jarvis itself. Unlike Yonge Street and Jarvis Street farther south, the neighbourhood was and is semi-residential, with a combination of small stores and offices, renovated houses, and highrise and lowrise apartment buildings.

In the 1970s, the male hustler scene moved from the corner of Bay and Dundas streets to an area of a few blocks north of College Street, west of Yonge Street. The Bay Street location had the Ford Hotel and the bus station, which were locations for gay men to meet each other and for male hustlers to find customers. When the Ford Hotel was torn down, the gay trade moved north to the St. Charles Tavern on Yonge Street, and the hustlers moved to the streets adjacent to the bar, which became the most well-known gay bar in the city until its closing in the fall of 1987.[2]

The ecology of Track II, or "Boystown," has changed only slightly in the past few years. The opening of the central YMCA somewhat increased traffic on streets that previously were almost deserted after rush hour. The male hustlers share their work environment with the "Y," provincial government buildings, a hospital and one small apartment building. Track II may change more dramatically with the 1988 opening of the new headquarters of the Metropolitan Toronto Police Force.

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[2]See Maloney (no date) for a description of the male prostitution business in Toronto in the seventies.

Although the body rub parlours were closed in the 1970s, Yonge Street was not prostitution-free. As Fleischman (1984) observed, until the mid-1980s, female prostitutes very obviously worked Yonge Street between Dundas and Gerrard both day and night. Women still work on this busy commercial strip, but in much reduced numbers and almost invisibly in the summer, because of the large number of street people and other pedestrians with whom they share the sidewalk.

Although street prostitutes worked the Parkdale area in west central Toronto as long ago as 1965, they started to be seen in sizeable numbers on Queen Street West in 1983, and especially in 1984. Although the street itself is largely commercial, the surrounding neighbourhood contains large old homes, many of which have been turned into small apartments, half-way houses, group homes and rooming houses. Originally an Anglo-Saxon working-class neighbourhood with a smattering of Eastern Europeans, by the 1980s many Portuguese and Italians had bought homes and businesses here. Around the same time, gentrification began and many side streets now contain renovated houses.

No one interviewed for this research could offer a reason why Queen Street West became a street prostitution track, other than that for many years, the area was a transient one and many female prostitutes lived in the area. Perhaps some women decided to work closer to home rather than travelling the several miles to the downtown strolls. The Queen Street West track, which runs between Bathurst and Roncesvalles, has less prestige, and sexual services are less expensive than on many of the downtown strolls.

To appreciate citizens' concerns about street prostitution in Toronto, particularly about prostitution in the east central area, it is important to understand

that the core of the city has undergone revitalization in the past 15 years. We have already referred to gentrification in Parkdale. Gentrification has occurred to a much greater extent in the downtown core. Large Victorian homes converted to rooming houses in the past have been reconverted to single family dwellings by professionals who want to live near their work. The side streets off the major north-south arteries of Church, Jarvis and Sherbourne (where street prostitution has thrived for years) now have almost completely changed their appearance, and their inhabitants, since the beginning of the 1980s. Almost every prostitution stroll is located either on or at the corner of one of these renovated streets, or within one or two blocks of expensive houses and condominiums. Unlike most other North American cities, there are few Toronto neighbourhoods within two miles of the centre that have *not* undergone some degree of gentrification.

By the mid-1980s, street prostitution was a concern to Toronto citizens, and their complaints included:

> traffic problems with congestion and honking horns; noise throughout the night in previously quiet areas; trespassing on private property; residents being pestered and treated abusively by prostitutes and their customers; the negative impact on youth activities and neighbourhood businesses in the area; and increased crime and violence.
>
> Fleischman, 1984: 63

There was public concern about the presence of prostitutes in these neighbourhoods and several public meetings were held in 1985, but the community groups were not well organized. Nothing resembling the citizen mobilization that took place in Vancouver occurred in Toronto. The passage of Bill C-49 was, however, welcomed by police and many residents who believed that the regained power of enforcement against street solicitation would reduce the problem of street solicitation in the city.

A. THE 1985 ANTI-SOLICITING LEGISLATION

Bill C-49 was passed by Parliament in December 1985. Section 195.1 of the *Criminal Code of Canada* now makes it a summary conviction offence when a person: "stops or attempts to stop any motor vehicle; impedes the free flow of pedestrian or vehicular traffic; or stops or attempts to stop any person or in any manner communicates or attempts to communicate with any person for the purpose of engaging in prostitution or obtaining the sexual services of a prostitute." The offence must be committed in a "public place or any place open to public view." The bill included a motor vehicle in the definition of a "public place" if the vehicle was located in a public place or in a place open to the public view.

The objectives of C-49 were threefold. The main objective was to reduce or eliminate the amount of street solicitation occurring in Canadian cities. Second, the legislators made it clear that the law was intended to apply equally to prostitutes and customers. Under the earlier s. 195.1, higher court rulings had differed with regard to its applicability to customers. Third, the law was intended to ease the evidentiary requirements. In the eyes of police, Supreme Court decisions had made it very difficult to lay charges under the former s. 195.1.

Bill C-49 includes a provision that, within three years after the section comes into force, a comprehensive review of the law is to be undertaken by a committee designated by the House of Commons. Within one year, that committee is required to submit a report, including a statement of the changes that the committee recommends.

B. THE OBJECTIVES OF THIS RESEARCH

To inform the review process described above, the federal Department of Justice in 1987 funded research in five major and several smaller cities throughout Canada. The large-city studies were conducted in Halifax, Montreal, Toronto, Calgary, and Vancouver. This research was designed to provide qualitative and quantitative data on the process of implementation of Bill C-49, and its impact on the criminal justice system, the street prostitution business, and the communities affected by street solicitation.

This report presents the findings of the evaluation of Bill C-49 for Metropolitan Toronto and, in less detail, for Ottawa, Niagara Falls and London. These three Ontario cities had also experienced problems with street prostitution before the new legislation.

The objectives of this report are:

(a) To describe the way the legislation has been implemented by the police and the courts, and the impact of the law on the agencies of social control, especially the police, the courts and social agencies. In addition to a qualitative description of the implementation and enforcement process, the report presents quantitative data. The report examines the following questions:

- In what ways have the police and the courts implemented the law, what organizational changes have been required, and what have been the costs?

- How many prostitutes and customers have been charged? What are their social and legal characteristics? What is their conviction rate and what sentences have they received?

(b) To describe the impact of Bill C-49 on the street prostitution business. Because concerns were expressed by critics of the

legislation that there would be negative impacts on the occupation, the following issues are examined:

- Has the amended s. 195.1 caused the geographical displacement of street prostitution and the relocation of the business from the street to indoor locations, such as escort agencies, hotels and bars?

- Has the legislation had unintended consequences for the street sex trade, such as an increase in the degree of control by pimps, an increase in the amount of violence experienced by street prostitutes, police-prostitute alienation and increased isolation of prostitutes from social services?

(c) To assess the extent to which Bill C-49 has achieved its objectives:

- Has it reduced or eliminated street solicitation and the "nuisance" factors that accompany the business?

- Is the law applied equally to prostitutes and customers?

- Is it easier for the police and courts to apply the law?

As discussed in the next chapter on research methods, information on the amount and characteristics of street solicitation before Bill C-49 is available from a 1984 report to the federal Department of Justice, which describes the street and off-street prostitution business for several Ontario cities, including Toronto, Ottawa, Niagara Falls and London (Fleischman 1984).

C. THE ORGANIZATION OF THIS REPORT

The next chapter outlines the methods used in the research, and briefly describes the methodological issues surrounding the evaluation of legislative initiatives in the criminal justice system.

In Chapter III, the process of implementation by the criminal justice system is described. Because the role of the police is so crucial in any assessment of the effects of the legislation, considerable detail is provided on the way in which the law has been implemented by the Metropolitan Toronto Police Force. Also discussed is the role of the Crown and defence counsel in the implementation of C-49.

Chapter IV contains a detailed discussion of the way in which s. 195.1 cases have been processed by the police and the courts, using as the primary data source a sample of approximately 25 per cent of persons charged under the legislation in its first 20 months. This analysis of data obtained from police arrest forms and "confidential instructions to the Crown" provides details of pre-trial detention, in-court processes, conviction rates and sentences for persons accused of "communication for the purposes of prostitution."

Chapter V describes the street prostitution scene in Toronto in late 1987, the second year of Bill C-49. It presents data on: the number of street prostitutes observed in the major Toronto track areas during data collection for this research (June 1987 to February 1988); the characteristics of the main players in the street prostitution business – prostitutes, customers and pimps; the impacts of the law on the street prostitution business from the perspective of the police and street prostitutes themselves; and the impact of Bill C-49 on off-street prostitution.

Chapter VI addresses the phenomenon of "juvenile prostitution" (or, more accurately, young offender prostitution) and any changes observed in the number of juvenile prostitutes working the city since the law came into effect. The case processing of young offenders charged with "communicating" is also presented in Chapter VI.

In Chapter VII, the report turns to the reactions of the wider community to the law. The reception of the print media to the legislation is first described. The media analysis is followed by the views of social service personnel toward the impact of the law both on the street prostitution trade, and on the service sector's attempts to assist street prostitutes. Finally, the community's perceptions of the law and its effectiveness in reducing solicitation in their neighbourhoods conclude the chapter.

A brief discussion of the process of implementation and the perceived effects of Bill C-49 on street prostitution in Ottawa, Niagara Falls and London is found in Chapter VIII.

Chapter IX summarizes the evidence for the extent to which the law has achieved its objectives (the reduction in street solicitation, equal application of the law, and the ease of application of the law by the police and courts). The chapter includes an overview of the evidence of the unintended outcomes of Bill C-49.

There are two methodological appendices that are bound separately from the body of the report. Appendix A contains the research instruments used for data collection, and the methods used in sampling and weighing police arrest data. Appendix B presents the supporting tables for the empirical analyses in the report.

CHAPTER II:
METHODOLOGY

Evaluating criminal legislation is both similar to and different from other types of evaluation, such as social program evaluation. Its similarities arise from the need for:

- baseline data on the phenomenon to be reviewed;
- objectives that are measurable;
- information on the way the "intervention" (in this case, an amended section of the *Criminal Code*) has been implemented by the responsible institutions and agencies;
- information on other, concurrent events in the environment that may affect the relationship between the predicted and the actual effects of the intervention and, as much as possible, to make a causal link between the intervention and any changes in the phenomenon under review; and
- identifying and documenting unintended outcomes.

From the practical perspective of evaluation methods, criminal legislation is even less amenable to experimental and quasi-experimental research designs than are social programs. We often lack sufficient data to undertake such sophisticated methods as time series analysis.[1] Frequently, too, other types of classical experimental designs cannot be used. For example, it would be extremely unlikely that evaluators of criminal legislation could randomly assign persons to

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[1]Two important exceptions to this generalization are legislation on drinking-driving and capital punishment. Indicators of impaired driving (e.g., traffic accident statistics) and the number of homicides are usually relatively readily available information.

experimental and control groups, or to have comparison populations that would adequately substitute for random assignment.

There are other differences between evaluating criminal legislation and other evaluations. In Canada, the development of criminal legislation is in the hands of the federal government, but the implementation of the law is the responsibility of the provinces (the courts) and municipalities (the police). Because of this, the way the law is implemented and, hence, the effects of the law may differ by jurisdiction. Furthermore, not only does the administration of justice vary across the country, so too do social and economic conditions (that may facilitate or impede implementation and assessment of causal linkages) and the magnitude of the phenomenon to be studied.

Therefore, in Canada, federal legislation cannot be reviewed by what Campbell and Stanley (1963) term the "one-shot case study." It is much more desirable to conduct multiple-site studies to demonstrate the degree to which the legislation's objectives have been met under a variety of conditions. The evaluation of Bill C-49 was conducted in five major and several smaller cities in Canada, and used similar data collection methods to facilitate comparison among the different jurisdictions.

Although it was not feasible to undertake an experimental or quasi-experimental approach to the evaluations, the selection of multiple study sites permitted inter-jurisdictional comparisons of the impacts of Bill C-49 and, with the assistance of qualitative data on implementation, provided insight into the reasons for any differences in impacts. Furthermore, in many of the study sites, including Toronto, pre-legislation data on street prostitution were available in the 1984 research reports prepared for the Fraser Committee on Pornography and

Prostitution.

A. STUDY METHODOLOGY: AN OVERVIEW

A more detailed discussion of some of the methods used in this research can be found in the pertinent chapters and in Appendix A. In this section, the major approaches taken in data collection are outlined.

Since the evaluation of Bill C-49 in Toronto was only one of a number of evaluations being conducted in a similar time period in different Canadian jurisdictions, the Toronto study was designed to share as many elements as possible with the other studies. That is, data collection methods, the measurement of key variables and analyses were planned to be as similar as possible given the different criminal justice (and other) environments. Research instruments were standardized. Interview schedules contained many of the same questions, asked precisely the same way. Data collection instruments such as protocols for collecting criminal justice system file data (see below) were also similar in content. The analyses and final reports worked from a common framework, so as to facilitate across-site comparisons.

Several sources provided quantitative and qualitative information on the implementation and effects of Bill C-49 in Toronto: interviews with "key actors;" a limited survey of citizens affected by street prostitution; data on arrests and court processes of prostitutes and customers charged under s. 195.1 from police files; analysis of the print media's coverage of C-49 in Toronto; analysis of advertisements for off-street sexual services; and field observations of the number of street prostitutes working in the city.

1. Interviews with Key Actors

Interviews were conducted with female and male prostitutes, police, Crown attorneys, defence counsel, social agency staff and spokespersons for community organizations, including prostitutes' rights organizations.[2] Two key actor categories – pimps and customers – were not interviewed, because we could not devise a satisfactory method of obtaining a representative sample of these participants in the street prostitution business.

Street Prostitutes

A total of 111 street prostitutes were interviewed: 45 women who worked on Queen Street West, three transvestites who worked in the downtown area, 14 men who worked in the male track (Track II), and 49 women who worked downtown (Track I).[3] Three trained interviewers were used: a male conducted all Queen Street interviews in the summer of 1987; two persons (the principal investigator with a male research assistant) did the rest between September and November 1987. Our initial concern that street prostitutes would be difficult to contact, and that it would be even more difficult to obtain their consent to be interviewed, was unfounded. Although the refusal rate was not low (about one out of every two or three persons contacted), many prostitutes were more than willing to discuss the legislation and their experiences with it. All interviews were anonymous; we did not ask for respondents' names.

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[2]This study could not include interviews with members of the Provincial Court bench responsible for hearing s.195.1 cases because the Chief Provincial Court Judge believed it inappropriate for the judiciary to comment on legislation that was undergoing review by the Department of Justice.

[3]See Appendix A for the interview schedules.

There are several reasons why this study site expended this considerable amount of project resources on prostitute interviews. First, we were aware that there was little reliable information on the street scene in the Toronto area, especially on the changes that may have occurred since Bill C-49 came into effect. We believed that changes in prostitute working conditions could be best reported by prostitutes themselves, rather than by police or social agency staff. Second, because of the large number of working prostitutes in Toronto (police estimate about 1,500), we believed it was important to obtain as large a sample as possible. Moreover, the downtown prostitution scene is dispersed among a number of different strolls (streets), which for convenience we refer to as "Track I." These strolls, however, have their own characteristics – in street prices, prestige, whether they are worked days, evenings or both, and the type of women working on them. It was therefore desirable to interview a sample of prostitutes working each stroll at different times of the day and evening.

All prostitute respondents were approached on the street. Until the weather became too cold, the interviewers approached the respondents on bicycles, which were chosen for two reasons. First, they are the most efficient means of transportation in central Toronto. (The Queen Street track is 2 1/4 miles and the two downtown tracks have a 1-mile radius.) Second, we hoped that the informality of the approach might increase the likelihood of obtaining respondent consent to an interview. We did not look like police officers, even undercover ones. This did appear to be true; later in the fall, when the interviewers used a car, the refusal rate jumped markedly. In fact, as soon as prostitutes spotted the car drawing up, they scattered. We concluded that the car may have resembled an undercover police vehicle. After two experiences of this kind, we approached prostitutes on foot.

Initially, respondents were asked if they would prefer to talk in a nearby restaurant or coffee shop. Only a handful agreed to this. Most preferred to remain on the stroll, saying that they did not want to take time away from work. Most prostitute interviews were therefore conducted under less than ideal conditions. There was always the danger that respondents would be distracted by street activity, particularly by the presence of potential customers, and leave mid-interview. Two strategies were used to avoid this. The interview schedule was streamlined after initial pre-testing on Queen Street, so that only the most important questions were asked. Interviews took from 15 to 25 minutes, depending on whether the respondent had pre-legislation experience on the street. However, in our introduction, we slightly exaggerated (downward) the length of the interview – we said "ten minutes, maybe a little longer". Furthermore, by using two interviewers, the second could take over the interview and gain back the respondent's attention when he or she appeared to be becoming bored or restless to return to work. These strategies did not always work and about five interviews were incomplete. (Two of these are excluded from the sample because very little information was obtained.)

Having two interviewers working together had another advantage. When other prostitutes approached and volunteered (or agreed) to be interviewed, the second interviewer took them aside and asked the questions. The other prostitutes, therefore, did not have to wait until the first interview was over. (This occurred several times.)

Although the cooperation of most respondents exceeded expectations, data quality was undoubtedly affected by the hurried nature of some interviews. A second factor affecting data quality was the joint nature of some interviews. When a prostitute team refused to be interviewed separately, one respondent often

took the lead in answering questions, so that the second respondent had less opportunity to express her own views and recount her own experiences.

We would like to offer two further comments about the interviewing process that may assist future field workers in the area.

Only one prostitute (a hustler in the male track) asked for money. His comment was "I usually get paid for doing interviews" – obviously someone experienced in dealing with the media and researchers.

Although the presence of the interviewer became generally known to many women working the Queen Street strip,[4] this was not true for downtown. The downtown strolls are relatively discrete in terms of habitués and word did not appear to spread that we were on the street. Probably, too, the sheer number of women working in Track I precluded their coming to know about the evaluation. Many women were interviewed that were never seen again, despite the number of hours spent on the street. In the downtown area at least, it would therefore be difficult for interviewers to gain credibility (i.e., were trustworthy, were not police, had no axe to grind, etc.) through word of mouth.

Finally, the question arises: "to what extent does the interview sample represent the total population of prostitutes working in Toronto in the last half of 1987?" The only available point of comparison with the population is the sample of prostitutes who have been charged by police. When we compare the two groups, we find that the interview sample was similar to the arrest sample in terms of gender, age and race. The main difference between those interviewed

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[4]Near the end of the Queen Street interviews, a rumour spread that the male interviewer was doing them for prurient kicks.

and those in police files was in the number of prior communicating charges: the interview sample was more likely to report previous communicating charges (two-thirds) than the arrested group (one-half).[5] It is possible that prostitutes who had direct experience with the law were more likely to consent to an interview than those with none.

Off-street Prostitutes

Five interviews with off-street workers were obtained. They were not representative, as four of the five individuals were associated with the Canadian Organization for the Rights of Prostitutes, a Toronto-based advocacy organization working for decriminalization of prostitution. Furthermore, only one respondent had recent escort agency experience; the rest were what we have termed "independents" (see Chapter V). We could not obtain access to escorts or managers of escort agencies.

Criminal Justice Personnel

Thirty interviews were conducted with line, middle-level, and senior police officers in the Metropolitan Toronto Police Force. Their organizational affiliations included: Youth Services, Morality and the four divisions where street prostitution exists. All interviews were conducted on police time, usually (for line officers) at the beginning of their shift. Interviews were confidential and conducted in private, except those with senior officers who were asked to discuss policy and organizational issues.

Two Crown attorneys and six defence counsel experienced in processing

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[5]Because prostitutes were interviewed in the last six months of 1987, the one-half figure is the proportion of prostitutes in April-June 1987 with a prior communicating charge (Table V.6).

communicating charges were interviewed. Less attention was paid to these two actor groups than was originally intended because it became apparent during data collection that the main reasons for interviewing these groups – defence and Crown strategies in ensuring dismissals and convictions – were not crucial issues in Toronto. Most accused were convicted, few cases went to trial, and the main interest of both Crown and defence counsel was the constitutional issue.

Social Agency Staff

Fourteen individual or group interviews were conducted with staff of social agencies that serve prostitutes and other street people as part of their mandate. We chose to focus on the agencies that have a streetworker or other outreach component because we believed that these people in these services would be able to comment more reliably on the changes in the prostitution business as a consequence of the legislation.[6]

Citizens

Interviews with nine members of advocacy groups and other citizens were undertaken: a city councillor whose ward includes one of the prostitution areas; four spokespersons for community advocacy groups in the downtown and Queen Street areas; and four members of prostitutes' advocacy groups. These interviews were primarily directed toward attitudes about the effectiveness of the law in dealing with the issue of street prostitution and, in the case of community groups, to obtain an insight into the effects of street prostitution on neighbourhood life.

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[6]The agencies contacted were Central Toronto Youth Services, Covenant House, Downtown Churchworkers Association, Elizabeth Fry Society, Moberly House and Street Outreach Services. In addition, the principal investigator attended a workshop on prostitution in May 1987, and conducted informal interviews with a number of participants (most of whom were agency personnel).

In addition, the principal investigator attended all three meetings of the Police-Community Prostitution Committee held during the project, and a research assistant attended a public meeting in the Parkdale area (Queen Street West track) where prostitution was discussed.

2. A Survey of Citizen Opinion on Street Prostitution in Toronto

This research deviated from the initial terms of reference for the study by conducting a limited survey of citizens living or working in areas of street prostitution. The survey was conducted in response to citizen requests. Spokespersons for community groups were concerned that this evaluation would not adequately address the problems caused by street prostitutes and their customers. For this reason, we designed a short mailed questionnaire[7] that was distributed to about 200 citizens. A mailed questionnaire was used because personal interviews would have been beyond the resources of this research.

The sample of concerned citizens was obtained from several sources:

- persons who had attended the Police-Community Prostitution Committee meetings;
- persons nominated by a spokesperson for Residents for Safe Neighbourhoods;
- persons who had attended meetings or who had otherwise expressed concern to a downtown city councillor (He maintained a computerized list of citizens from all over the city who had expressed interest in street prostitution.); and
- community groups, whose spokespersons were given the opportunity to distribute about 150 questionnaires to their membership (e.g., ratepayers' associations, tenants' associations).

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[7]See Appendix A for the survey instrument.

Citizens from the four areas of street prostitution were included, although the downtown Track I contributed about 80 per cent of the original sample. More than 210 instruments were distributed by mail; 62 responses were received.[8]

The survey was conducted in January and February 1988. The first week in March was the cutoff date for returns. Because of time constraints, only one follow-up letter was sent. (Since the survey was completely anonymous, follow-up letters could not be targeted to non-respondents, so all persons for whom we had names and addresses received a follow-up letter.)

There is no question that both the original sample and respondents to the questionnaire were not representative of citizens in street prostitution areas, but they were not intended to be. The sample was designed to obtain the attitudes and document the concerns of the most vocal members of the community. That objective may have been achieved – although the response rate was lower than anticipated, and lower than the 50 per cent response rate usually regarded as "adequate" for mail surveys.

3. Analysis of Existing Records

Documentary sources of data for this research included police data on arrest, and court processes and outcomes of persons charged under the new soliciting law, articles in the Toronto print media and advertisements for off-street sex services.

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[8]However, six were returned too late to be included in analysis. As we are not sure that all 210 questionnaires were distributed, a precise response rate cannot be calculated. The estimated rate is between 30 per cent and 40 per cent, with the higher rate assuming that 40 of the 150 questionnaires distributed by spokespersons for community groups were not distributed. (We know that at least 110 distributed by spokespersons were received by citizens.)

Police Arrest Data

Data on the characteristics of prostitutes, customers and pimps were coded from police arrest files in the Morality Bureau and three police divisions. Because police files also contain the "confidential instructions to the Crown" we were able to code information on the court processes of these three kinds of actors at the same time as the arrest records. (More detail on the arrest sample is found in Chapter IV and in Appendix A.) A comparison of our sample data with official police statistics indicates that the sample is representative of the persons charged by the Metropolitan Toronto Force in the first 20 months of Bill C-49.

Media Analysis

Articles referring to prostitution that appeared in the three Toronto daily newspapers between October 1985 and December 1987 were coded. The sources of the clippings were: the Ontario Legislative Library, the library of the Centre of Criminology (University of Toronto), and the clipping files maintained by the Department of Justice Canada (Ottawa). Although we are reasonably certain that the media references for 1985 and 1986 represent most or all of the articles on prostitution appearing in that period, this is not the case for 1987. In 1987, only 72 prostitution articles were found, less than half the number for 1986 (151). The *Toronto Sun* tabloid is particularly under-represented in 1987; in 1986, *Sun* articles on prostitution represented about 30 per cent of the total but in 1987, only about 10 per cent were from this paper. It is possible that editorial boredom with the issue of prostitution may partly account for the decrease in numbers between 1986 and 1987, but it is unlikely that it would account for the magnitude of the drop.

Analysis of Advertisements for Sexual Services

One of the objectives of the study was to assess the displacement effect of the legislation – the extent to which the prostitution business has shifted from the street to the agencies and other off-street venues. To this end, ads in the weekly newspaper *Now* and in the Yellow Pages of the Toronto telephone book were counted. In the case of *Now* magazine, escort and "massage" advertisements in one issue per month were classified by type of ad (e.g., gender and sexual orientation of advertiser, escort versus massage, agency versus individual) from January 1985 to December 1987. Escort agency advertisements in the Yellow Pages for 1984 to 1987 were simply counted. The purpose of this task was to estimate the changes in the number of such advertisements pre- and post-Bill C-49.

4. Field Observations

The principal investigator and two research assistants (the same persons who conducted the prostitute interviews) conducted weekly (or more often) field observations between June 1987 and February 1988. These observations involved "street counts" of the number of working prostitutes in three track areas (the downtown core where Tracks I and II are located, and on Queen Street West). As discussed in Chapter V, observations of a fourth prostitution area (the Lakeshore) were abandoned after July 1987, when it became apparent that the numbers working there were low.

These observations of street activity in the main prostitution tracks served two purposes. The first was to give a sense of the numbers of persons working at one time – how visible was the problem in Toronto in the summer and winter of 1987? The second was to provide baseline data for any future assessments of the magnitude of street prostitution in the city.

B. METHODOLOGICAL PROBLEMS AND CAVEATS

As mentioned above, evaluation research requires baseline (i.e., pre-intervention) data on the phenomenon under investigation, to ascertain what the changes since the intervention have been. There were, fortunately, data available on street prostitution before Bill C-49 was passed in December 1985. In 1984 the Department of Justice commissioned several research studies, one of which was undertaken in Ontario, to support the work of the Fraser Committee on Pornography and Prostitution. The Ontario research (Fleischman 1984) collected data on the characteristics of persons in the prostitution business and the organization and perceptions of the social control agencies with regard to street prostitution. The information in that report provides a valuable source of baseline data on the "pre-law" situation, particularly on the characteristics of prostitutes.

There are no baseline data on the number of street prostitutes working the track areas, however, nor are there reliable estimates of the total number of street prostitutes in the city before Bill C-49. According to police, there are no reliable estimates because prior to the current legislation there was no legitimate means for assessing the number working the streets. As a consequence, this research has had to rely on the recollections of social control agents, citizens and prostitutes on this issue. Unfortunately, their recollections do not agree.

In the same vein, there is no information available on the number of customers pre- and post-law: again, retrospective data (also conflicting) must be relied on.

Therefore, in the absence of baseline data on these and other topics, we had to ask respondents with pre-law experience – primarily police and

prostitutes – about their recollection of the situation before December 1985. Attitudes toward the law, other intervening events and memory loss are among the factors that may affect the degree of reliability of a respondent's perceptions of changes since the legislation was passed.

The assessment of the unintended, although (often) anticipated consequences of the legislation also relies on the subjective views of respondents. The subjective nature of the opinions raises problems of reliability, especially when respondents are asked to comment on topics not directly experienced by them: for example, when police are asked about changes in the safety and working conditions of street prostitutes. To some extent, problems of subjectivity were overcome by collating the opinions of many respondents – 111 prostitutes and 30 police officers.

Another methodological problem in this research was our inability to find a satisfactory method of interviewing a sample of pimps and customers of street prostitutes. Of the two actor categories, the omission of pimps is less serious. It is unlikely that the information they would be willing to provide would have greatly enhanced our analysis. However, the omission of the consumer of street sex as a respondent category is more serious. It would have been desirable to have the customers' views on the deterrent effect of the law on their use of street prostitutes, their use of off-street prostitutes, and (for a subset) the effects of being charged. Fortunately, the police maintain good records containing the characteristics of customers who have been charged, so that we have been able to describe the socioeconomic characteristics of this subset of the total population of customers.

At the outset of this research, we anticipated that AIDS was one major factor that could interfere with our establishing a causal relationship between the law and changes in the street trade. At approximately the same time as Bill C-49 was passed, public awareness and concern about AIDS greatly increased. Since it is a sexually transmitted disease that is deadly, it is possible that the fear of coming into contact with AIDS carriers would decrease both the number of prostitutes and customers, independently of any legislative change or police enforcement of that change. As it has turned out, only a minority of prostitute respondents (and almost no police or social agency personnel) believe that the threat of AIDS has appreciably affected the business. However, our prostitute respondents may be a biased sample: any who had quit the business because of fear of AIDS would not be available to be interviewed. Nor do we know the attitude of customers toward the issue – the effect of AIDS on their use of commercial sex would have been most reliably obtained from customer interviews.

There are other possible factors that are also independent of Bill C-49, that may have affected street prostitution in Toronto.

It was suggested by a spokesperson for a community advocacy group that it was public pressure – not the law or the police response to it – that has brought about any changes that have been observed since December 1985. From this perspective, it was community pressure on the police and politicians that impelled the police to undertake such intensive enforcement (and to use methods such as increased foot patrols and large-scale sweeps of customers). It was also suggested that public opinion has been responsible for the increasing severity of sentences being imposed on persons found guilty of s. 195.1 offences.

A senior police officer suggested that the law was only a tool, and that it was the vigorous proactive response of the police force that has brought about any changes that may have occurred.

Finally, many of the changes in the environment of some areas affected by street prostitution (e.g., better lighting of streets and lanes, changes in traffic patterns) that may have helped to reduce the number of prostitutes and customers are independent of the law, and solely the consequence of community lobbying.

CHAPTER III:

THE IMPLEMENTATION OF BILL C-49 BY THE CRIMINAL JUSTICE SYSTEM

A description of the implementation of Bill C-49 by the criminal justice system in Toronto is presented in this chapter. As the front-line institution responsible for carrying out the legislation's intent, most emphasis is placed on the police but a brief discussion of the role of two court-based actors (Crowns and defence counsel) is also included.

As this and the next chapter illustrate, the Toronto Police Force has applied the law vigorously against both prostitutes and customers. Responding immediately to the new legislation, the police laid more than 500 charges in the first quarter of 1986. This policy of intensive enforcement has continued throughout the brief history of the law, so that in the first three months of 1988, approximately 800 charges were laid.[1] The process of implementation by the police, consuming as it has thousands of hours of manpower, is therefore of considerable interest. In Toronto it certainly cannot be suggested that any failure of the legislation to achieve its primary objectives – reduce street soliciting and the accompanying "nuisance" factors – has resulted from lack of police enforcement.

The data sources for this section are primarily interviews with both line and senior police officers, Crown attorneys, defence counsel and prostitutes. In

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[1]According to a senior police officer at a meeting of the Police-Community Prostitution Committee in April 1988. See Chapter V for further discussion of the number of charges laid over the course of the law.

addition, the police "confidential instructions to the Crown" were used to supplement interview data on the evidentiary requirements of the law.

A. IMPLEMENTATION BY THE POLICE

Although the 1978 Supreme Court decision in the *Hutt* case is widely cited as the reason why Canadian police were hampered in their efforts to control street prostitution, police in Toronto continued to lay substantial numbers of soliciting charges until 1981 (Table III.1). In that year the Supreme Court expanded on the *Hutt* case – in which the Court had ruled that soliciting had to be "pressing or persistent" for the conduct to be illegal – with two further decisions on the former s. 195.1. In *Whitter* and *Galjot* the Court found that conduct is not pressing or persistent if the prostitute approaches a number of individuals and makes a single request of each. According to the Report of the Special Committee on Pornography and Prostitution, it was because of these two decisions that the Toronto Police "decided that section 195.1 had become a 'broken reed'" (1985: 423) and virtually discontinued the laying of charges under the section. In the two years prior to C-49, a total of four charges were laid under s. 195.1.[2]

[2]According to Toronto police officers interviewed by Fleischman in 1984, some judges were still willing to hear soliciting charges at that time.

TABLE III.1

SOLICITING CHARGES LAID BY THE TORONTO POLICE, 1981-1985

	Male	Female	Total
1981	241	381	622
1982	22	120	142
1983	5	48	53
1984	0	3	3
1985	0	1	1

Source: Metropolitan Toronto Police, "Public Report", November 6, 1986, page 6.

Since Toronto did not attempt to control street prostitution by the development of by-laws or injunctions, in the interim period between 1982 and 1985 the charges used to deal with street prostitution were all found in the *Criminal Code of Canada*: indecent act, counselling to commit an indecent act, gross indecency[3] and the bawdy house offences. Loitering and disturbance sections were sometimes used as well, but these charges were ultimately not viewed favourably by the higher courts (Fleischman 1984: 62). Court rulings also made it difficult to prosecute persons for counselling to commit indecent acts.

In January 1986 the police met with the Crown attorney's office to establish the evidentiary requirements for the administration of the amended s. 195.1. Like other communities in Canada, the decision was made to lay

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[3]As of January 1988 gross indecency (s. 157) has been removed from the *Criminal Code*.

charges only under part of subsection (3): "every person who in a public place or in any place open to public view ... in any manner communicates or attempts to communicate with any person for the purpose of engaging in prostitution or of obtaining the sexual services of a prostitute." In the view of the Crowns' office, this subsection of the legislation involved the simplest evidentiary requirements – by the use of male and female undercover officers, both the prostitute and the customer can be charged after evidence of communication is obtained.

The remainder of this section examines the procedures used by the Toronto Police Force to implement Bill C-49. After an overview of the organization of the sections of the Force responsible for prostitution offences, the implementation of the legislation by the Morality Bureau and the affected police divisions is described. As will be seen, the manner in which the police have used the law differs by division; for example, some concentrate more on customers than prostitutes and vice versa. The next section explores the practices of line officers in their on-street enforcement, including their views of the evidentiary requirements for the charge. The practice of detaining prostitutes for bail hearing is then discussed, followed by a description of the counter-measures taken by prostitutes and customers to avoid being charged. The section concludes with an overview of the police organizational changes that have occurred as a result of Bill C-49 and with estimates of the legislation's costs to the Metropolitan Toronto Police Force.

1. Police Organization

The Morality Bureau and divisional staff of the Toronto Police share responsibility for enforcement of s. 195.1. In 1986 street prostitution in Toronto was found in the following divisions:

- 14 Division (and part of 11): Queen Street West between Bathurst and Roncesvalles;

- 22 Division: Lakeshore Boulevard West between the Humber River and Park Lawn;

- 51 Division: parts of Track I, i.e., Sherbourne, Isabella, Earl and Huntley streets; Gerrard, George, Dundas and Pembroke streets; Ontario, Gerrard, Seaton and Carlton streets; and

- 52 Division: part of Track I and all of Track II: Church, Jarvis, Charles and Dundas (a fairly large area containing a number of strolls); Yonge Street between Dundas and Gerrard; and all of Track II – Yonge, Queen's Park, Grenville and Breadalbane.

However, even before the enactment of Bill C-49, the Toronto Force had developed two specialized squads to combat juvenile prostitution, pimps and street prostitution: the Juvenile Task Force (JTF) and the One District Task Force on Prostitution.

Established in 1981, JTF works out of 52 Division in downtown Toronto, and is responsible for apprehending adults, mostly pimps who use juveniles to commit crimes. The main interest of JTF is persons under the age of 16 years but its members also become involved with young offenders of 16 and 17 years. The eight-officer squad does not prosecute young persons for communicating. They view enforcement of the anti-soliciting legislation as outside their mandate, which is primarily to prosecute pimps. Nor do JTF officers participate in the "sweeps" organized by the Morality Bureau (see below).

Growing police and public concern about the increase in the number of street prostitutes working on Queen Street led to the creation of the One District Task Force on Prostitution in June 1985. Working out of 14 Division, the six-officer task force is primarily involved with pimping and bawdy house offences, but also enforces the communicating law.

We will now describe the organizational structure of those components of the Toronto Force which are integrally involved in the administration of Bill C-49: first the Morality Bureau and then each of the divisions concerned.

The Morality Bureau has a 16-officer general squad which is responsible for the enforcement of morals offences (prostitution, liquor and gambling) and a four-member Juvenile Task Force that focuses on juvenile prostitutes and pimps.[4] Morality is responsible for organizing, supervising and processing the persons charged in the regular sweeps or blitzes of prostitutes and customers conducted in areas of street prostitution between January 1986 and early 1988.[5] With the assistance of plainclothes officers from across the city and policewomen drawn largely from the uniformed branch, the sweeps generated a substantial proportion of the 5,400 communicating charges laid between January 1986 and December 1987.

In addition to the sweeps, regular enforcement of s. 195.1 is undertaken on a routine basis by plainclothes officers in Morality's general squad, and by officers in 14, 22, 51 and 52 Divisions.

In 14 Division most of the enforcement of Bill C-49 is done by the uniformed branch. The approach of the Division has been to concentrate on the customers through the use of policewomen decoys and cautions to cruising johns.

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[4]According to an April 1988 report to the Toronto Police Commission, there are 20 constables, three sergeants and one staff sergeant working full time on street prostitution.

[5]A sweep is defined as a large scale police action in which customers or prostitutes are targeted simultaneously in most or all areas of street prostitution in the city. Sweeps last from one to three nights.

Although the One District Task Force on Prostitution is based in 14 Division and lays some communicating charges, these officers generally focus their efforts toward more serious prostitution-related offences.

22 Division is a special case because street prostitutes did not work there until 1985, and more noticeably in the summer of 1986 when women started working near some of the less expensive Lakeshore Boulevard motels which for many years have been used as venues for turning tricks. In September of 1986 personnel from the Major Crimes Unit in Two District (of which 22 Division forms a part) were assigned to "Project Spinner" – a special task force established to combat the influx. (See the next section for a complete description of the project.) As the number of street prostitutes decreased, the enforcement effort was correspondingly reduced. In the winter of 1987-88 six officers from the unit maintained a watching brief over the area.

In 51 Division four officers in the Major Crimes Unit – two are trainees rotated every six months – are assigned to morality work. In addition, policewomen are borrowed from the uniformed branch in that division to act as prostitute decoys.

In 52 Division 12 men are assigned to morals-related offences. In this Division most attention has been directed toward charging prostitutes, and policewomen from the uniformed branch have not been used to any extent.

In each division where street prostitution exists, uniformed officers on foot and in cruisers are used to spot check prostitutes (i.e., they ask their names and check to see if they are violating any court order, such as curfew or an area restriction). These routine checks are also used to develop intelligence (names,

addresses, relationships to pimps) on the prostitutes working the streets.

2. Implementation by the Morality Bureau: The Sweeps

The general squad of the Morality Bureau is responsible for coordinating the sweeps of prostitutes and customers undertaken in prostitution areas since the law started being enforced in early January 1986. The sweeps became more routinized and more extensive after a November 1986 meeting of the Board of Police Commissioners, where citizens testified to the continuing problems created by street prostitution. After that meeting, police decided to undertake the following strategies:[6]

- Morality will coordinate and have regular blitzes. Enforcement is to be uniform across Metro, and police skills in enforcement are to be developed.
- Enforcement would not be reduced during the winter of 1986-87.
- A central prostitution file will be set up in Morality; this file allows monitoring of the movement and numbers of working prostitutes.
- Court orders (e.g., curfews) will be enforced by uniformed officers.
- Whenever possible, candid photographs of prostitutes will be taken and kept on file.

According to estimates from this project's analysis of a sample of police records, the Morality Bureau has been responsible for about 40 per cent of the charges laid against prostitutes and about 60 per cent of those laid against customers. The 60 per cent estimate would undoubtedly be much higher if our data collection period had extended to November-December 1987, when two major sweeps (one of three days duration) resulted in 550 customers being

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[6]This information is taken from the Minutes of the Police-Community Prostitution Meeting, January 15, 1987.

charged.

During 1987 the sweeps attempted to focus alternately on prostitutes and customers. In the fall of 1987 there was a police policy decision to concentrate on customers (hence, the john sweeps mentioned above). No sweep of prostitutes was done in the winter of 1987-88 and in the spring of 1988 a new enforcement strategy was planned to replace the city-wide sweeps (see below).

Each division has been instructed by the chief of police to cooperate with Morality in terms of their manpower requests for the sweeps, but negotiations with divisional personnel are often necessary. Requests for officers are sent several weeks in advance of a planned sweep. The size of the customer sweep is often dependent on the number of policewomen available. Participation by female officers is voluntary, as it is argued that policewomen who do the job reluctantly will not do it well.

Sweeps take place on Wednesday, Thursday or Friday nights from about 7 p.m. to 2 a.m., and occur simultaneously in each prostitution area. The decision regarding the date of the sweep is made by the staff inspector in charge of Morality. One factor in the timing is whether Morality has had the time to process the paperwork produced by the last sweep. Although officers from a number of divisions assist in the sweeps, both the paperwork required and the credit for the charges remain with Morality.

Procedures differ for prostitute and customer sweeps.

A typical sweep of female prostitutes involves about 40 officers, including supervisors at the single command post. About 20 cars are required: 10 rental

cars used by the officers who actually approach the prostitutes and 10 unmarked police cars for use by back-up officers. Two "wagons" are required to process the prostitutes and to detain those held for a "show cause" hearing (detaining them overnight for a bail hearing).

Customer sweeps require more personnel. Typically, 15 policewomen with 45 back-up officers are used for the actual charging. Including supervisory personnel, a total of approximately 60 officers is required for the less extensive john sweeps. Although in a prostitute sweep male officers move from stroll to stroll, in a customer sweep policewomen work on a corner where they remain for the duration of the sweep. The corners are selected on the basis of their location on an existing stroll and on the availability of good cover for back-up officers.[7]

In addition to the sweeps, the general squad in Morality undertakes routine enforcement of Bill C-49. As their other duties permit, officers cruise the prostitution areas and attempt to get prostitutes to "crack" to them ("crack" is the Metro Force's terminology for the verbal exchange providing the necessary evidence to lay a communicating charge).

The continued presence of prostitutes working in the downtown area, and particularly on the residential strolls in 51 Division, resulted in a new enforcement approach being taken in the spring of 1988. A 10-week concentrated effort (a "spring offensive") was planned. Enforcement by Morality would no

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[7]Some locations are apparently considered especially advantageous and have been used repeatedly: 44 per cent of all customers charged in Track I were charged at Ontario and Carlton streets; 56 per cent of all customer charges on Queen Street West were laid at Queen and Crawford streets. One police respondent commented that the repeated use of Ontario Street for the sweeps may have inadvertently increased the john traffic on this residential street.

longer be confined to the evenings and late in the week, but would occur at various times of the day and throughout the week. Both prostitutes and customers were to be targeted. During the 10-week trial no sweeps would occur. However, as was the case with the sweeps, officers from throughout the city would be employed in these more focused "mini-sweeps."

The Morality Bureau maintains a file of about 800 photographs of street prostitutes.[8] In addition, a full-time data analyst is used to identify and track prostitutes who have been charged by the police; this is done in an effort to estimate the number of prostitutes working in the city and to prevent the prostitutes from lying about their identity when charged by the police.

3. Implementation by the Police Divisions Serving the Prostitution Areas

In November 1986 an official document of the Metropolitan Toronto Police noted that the Force has dealt with street soliciting in various ways throughout the city. "The choice of strategy employed has been determined at the divisional/unit or district level by many factors including availability of resources, i.e., personnel/equipment and type of location in which the offensive activities have been taking place" (Metropolitan Toronto Police Force 1986: 3). In many respects, therefore, enforcement practices have differed by division,[9] and in this

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[8]These photographs are taken by police when prostitutes are charged and, according to a senior officer, are taken on consent of the prostitutes. In addition, however, police are reported to take "surveillance photographs" of prostitutes working the track area without their consent or knowledge. This strategy was also used by Project Spinner in 22 Division (see below); videotapes of the Lakeshore action were taken from surveillance vans and photographs of working prostitutes were distributed to uniformed branch officers.

[9]Differential resources, manpower and the views of the unit commander are three factors contributing to these differences.

section the differences are described.

14 Division

In 14 Division, whose jurisdiction includes most of the Queen Street track and which is also responsible for the part of the track falling into 11 Division, the emphasis from the inception of the communicating law has been on the customer. Approximately 70 per cent of the charges laid by 14 Division personnel have been against the customer.

Several times a week policewomen from the 14 Division uniformed branch are placed on Queen Street to act as decoys. Recently trained policewomen are first assigned to walk the beat in the Queen Street area to familiarize themselves with street prostitution in the division. According to senior officers interviewed, after their foot patrol experience most policewomen are willing to act as decoys. The task provides the new policewomen with experience in undercover work and in enforcement activity that they might not otherwise have for several years. The back-up police assigned to protect the decoys are officers in uniform.

Members of the One District Task Force on Prostitution also lay communicating charges against prostitutes. There are only six officers on the squad, however, and their faces and cars become quickly known to women who regularly work the Queen Street track. According to one respondent, the communicating laws have been a useful way of making contact with street prostitutes, and their ability to conduct investigations regarding the task force's primary concern (pimps) has improved.

14 Division uses a yellow car marked "Crime Prevention" as a "blitz" car against cruising customers. Patrol officers are instructed to caution prospective customers driving slowly along Queen, obviously inspecting the women on offer. These cautions are the only use made of s. 195.1 (b) by the Toronto Force: customers are warned against impeding the free flow of vehicular traffic by their cruising behaviour.

22 Division

As a result of citizen complaints about street prostitutes working the motel strip on Lakeshore Boulevard West in Etobicoke, 22 Division personnel devised Project Spinner, a special task force that began in September 1986, and in 1987-88 continues in reduced form. Eight plainclothes officers from the Major Crimes Unit were assigned to the project. Because the emphasis was placed on customers, policewomen to be used as decoys were borrowed from the plainclothes and uniformed branches in Two District. Surveillance personnel from the drug squad were used to take videos of the activity on the strip.

Police asked for and received letters of authorization from some of the motel owners on the Lakeshore to permit police to act as their agents. Officers served a Notice of Trespass (a provincial statute violation) on prostitutes working on motel property. (Motel property is almost the only place for the women to stand.) These notices forbid the individual from returning to the property for any reason. If the prostitute returns, she is liable to a $1,000 fine under the *Trespass to Property Act*. Informal photographs were taken of prostitutes and distributed to uniformed personnel, who could then enforce the notices once served. Police view this tactic as being a "very effective" control measure.

Project Spinner officers were instructed not to release prostitutes on an appearance notice if they could avoid doing so; an estimated 90 per cent of women were arrested and held overnight for a show cause hearing. Officers attended that hearing and, if required, gave evidence on the necessity of imposing bail conditions: a 10 p.m. curfew, boundaries (keep out of the Division), and carry bail papers at all times. Conditions were generally imposed and were regarded as "another chance to nail" prostitutes who violated them.

About 850 charges were laid by Project Spinner over one and a half years, including drug, bawdy house, living off the avails of prostitution, failing to comply with court orders and communicating charges. Sixty-five per cent of about 600 communicating charges were laid against customers.

51 Division

Many of the strolls in 51 Division are located on residential streets and it is this Division that has had the most organized citizen opposition to street prostitution. Citizens' tactics on the streets have included "hooker patrols," and harassment of cruising customers by taking photos and license numbers. Public pressure on the Division has been considerable.

In addition to committing manpower to the regular Morality sweeps, the Division has a policy of concentrating foot patrol officers on the affected streets and of enforcing s. 195.1 in the day as well as at night. (Most of the daytime strolls in Toronto are located in 51 Division.)

About 40 per cent of the communicating charges by divisional personnel have been laid against prostitutes. About half of the time of the four male plainclothes officers is spent enforcing the communicating law. The small size of

the unit has slightly hampered their ability to charge because regulars on the streets quickly come to recognize them, but the rotation every six months of two trainees to the unit eases this problem. Officers report that there are always new faces on the streets and the recognition factor has not been a major problem. It is worth noting here that, in this Division, the general view is that the total number of prostitutes has remained stable or increased in the two years since the law came into effect.

As in 14 Division, policewomen from the uniformed branch are used as decoys to enforce the communicating law against the customers in 51 Division. Unlike 14 Division, back-up officers are from plainclothes. In addition, there is heavy concentration of foot patrols and uniformed officers in cruisers in the stroll areas. During observations for this research, an observer was stopped three times in a few city blocks because of a burnt out headlight. His cruising presumably resembled that of the typical john.

52 Division

In terms of personnel, 52 Division is the largest in the city,[10] serving the central city core. The Division includes about one-half of the downtown track and Track II (male prostitutes). Most street prostitution activity is on non-residential streets or at the corners of residential streets.

52 Division is unique in that almost all enforcement has been directed against prostitutes – more than 90 per cent of the charges laid by divisional

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[10]52 Division personnel laid more than 40 per cent of all charges laid against prostitutes between January 1986 and September 1987.

personnel have involved prostitutes.[11] Only in late 1987 was a policewoman temporarily assigned to the morality unit to assist in charging customers. Uniformed policewomen have not been used as decoys.

The 12-officer unit responsible for enforcement has four unmarked cars available for enforcement. No rental cars are used because of budget restrictions. Officers estimate that about 40 per cent of the communicating charges against prostitutes are laid as a result of "walk-ups" – that is, the officer approaches the street prostitute on foot rather than in a car and the deal is made on the street. This tactic is used because of the likelihood that prostitutes will recognize the unit's few unmarked cars.

4. Street Level Implementation of the Communicating Law by the Police

This section describes police procedures with regard to apprehending prostitutes, arresting and detaining them for a show-cause hearing and apprehending customers.

Apprehending Prostitutes: A Game of "Cat and Mouse"

All police interviewed agreed that, for communication for the purposes of prostitution to have occurred, the prostitute must mention the price and the sex act to an undercover officer. A small number of officers said they would sometimes ask for the price of a sexual service and then charge when the answer

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[11]Of the approximately 1,000 prostitutes charged by 52 Division, most were females (86 per cent) or transvestites/transsexuals (8 per cent). Neither 52 Division nor Morality laid many charges against male prostitutes in Track II. See the discussion of this point in Chapter IV, "equal application of the law."

was provided (e.g., "how much for a lay?").[12] Most officers stated they would take care not to be the first to mention either the price or the sex act; they would try to have the prostitute list her "menu" and prices. Most officers answer questions such as "how much do you want to spend?;" the prostitute has "communicated" if she says "that will get you a ... ." Officers and prostitutes spontaneously mentioned more than once that their conversations resembled a cat and mouse game, with both parties attempting to have the other name the sex act and the price.

In addition to these two components of the charge, officers also generally present evidence that the prostitute initiated the exchange (e.g., by nodding, smiling or approaching the officer), and that there was an indication that the agreement would be carried out (e.g., by the prostitute getting into the car and directing the officer to the venue for the sex act).

Procedures after the communication occurs differ by officer and by situation. In a minority of instances, the officer who hears the details necessary for the charge does not identify himself to the prostitute. Instead, he drives away and back-up officers approach the woman and inform her that she is charged. This is done when the officer who heard the communication does not want to reveal his identity, or to have his car identified ("burned") – either by the prostitute or by the companions with whom she is working. A number of officers disapprove of this practice.

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[12]Others said that this practice was "not fair:" there are generally accepted rules to this game. Some officers stated that this practice "would not look good in court."

In most cases, however, the officer who hears the communication identifies himself after the prostitute has entered the car and they have driven a short way, followed by a back-up car. If the apprehension occurs during a Morality sweep, the officer will usually drive as close as possible to the command post before identifying himself – this is done to avoid the prostitute attempting to escape. In routine enforcement, the officer drives out of the immediate area to a location where back-up is close enough to prevent escape.

Officers are required to record in their notebooks the details of the conversation with a prostitute who has "cracked" as soon as possible after the event.

When asked if they ever feared for their personal safety when apprehending prostitutes, most officers mentioned that many prostitutes carry weapons – usually knives, but sometimes mace or even a gun.[13] As a result, the purses of prostitutes are searched as soon as possible after their apprehension. Many officers routinely lay a charge of "possession of a concealed weapon" if the prostitute states that the weapon was for her protection; others do not. No officer described an instance in which he had been harmed by a prostitute.

If a prostitute has communicated to an undercover officer, a charge is almost automatic. Of the 22 line officers interviewed, only 3 reported that they had not charged a prostitute when they had sufficient evidence. One officer drew the analogy with a radar speed trap: a ticket is an automatic consequence when the speed limit is exceeded. Officers exercised their discretion not to charge in

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[13]Interviews with prostitutes suggest that only about one-quarter carry a weapon. High heels and hairspray are much more frequently mentioned as methods used to protect themselves when "on a date."

the following cases: two newcomers to the street with "hard-luck stories" and little English; one teenager who was referred to a social agency and was not seen again on the street.

"Show Causing" Prostitutes

The practice of detaining prostitutes overnight for a bail hearing ("show causing" them) changed over time in Toronto. At first, almost all prostitutes were released on the street with an appearance notice. In the first six months of 1986, only 4 per cent of the prostitutes were detained. In the next three months 32 per cent were held and "show caused." The largest proportion (almost 60 per cent) were held in December 1986/January 1987. By the summer of 1987 about 40 per cent were being detained.[14]

The change in 1986 was part of an explicit police policy. A November 1986 Toronto police report to the Board of Police Commissioners stated that one of the strategies used to fight street prostitution was to:

- "confer and request cooperation from Crown Attorneys requesting that a show cause hearing be used in the cases of prostitutes rather than the issuance of appearance notice (8.1) which is the usual procedure;" and

- request that the Crowns "impose conditions upon the prostitute at the show cause hearing upon release on bail or as part of probation following conviction, which would restrict or prevent them from returning to the area in which they committed the offence."

Metropolitan Toronto Police Force 1986: 3

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[14]The data in this paragraph were obtained from our analysis of police file data. For the supporting table, see Appendix B, Table IV.4.

Interview data suggest that the courts did generally impose curfews and/or area restrictions as requested by the police and the Crowns. Police believe that detention and the imposition of bail conditions are effective control tactics. By detaining the prostitute overnight, he or she is kept off the street, albeit temporarily. If prostitutes violate a bail condition, they are liable to another charge – the more serious, hybrid offence of failure to comply.

An added advantage of bail conditions is that uniformed officers can be used to enforce them. During routine spot checks of prostitutes, the officer can ascertain whether they are subject to any court order.

During a Morality-coordinated sweep of prostitutes, the decision to release or to detain is made by supervisory personnel at the command post.

During routine enforcement, the detention decision is made by the individual officer and a good deal of discretion appears to be involved, according to interviews with line officers. Some of the factors taken into account are: if there are recent communicating charges the person may be held on the grounds of likelihood of reoffending; those with outstanding bench warrants and persons from the United States are automatically held; and most (but not all) officers will detain a prostitute if she has been found violating a condition of a bail or other court order.

Probably the most frequently used ground for "show causing" prostitutes is an inability to establish their identity. Most prostitutes do not carry identification, presumably in the hope that they will be able to lie successfully to the officer

about their identity and thus be able to skip out on the charge.[15] What they may not realize is that their lack of proper identification makes it easier for the police to hold them for a show cause hearing. In the absence of I.D., police must have evidence that the person is who she or he says. In some instances, police use their judgment and accept the prostitute's account of herself. In others, police will pursue the matter and if her identity is not verifiable, then most officers will arrest her and hold her for a show cause hearing.

Prostitutes who do lie or attempt to lie about their identity are subject to additional charges: "acknowledge bail in false name" and "attempt to obstruct justice." Again, the laying of these charges is discretionary and appears to depend on the individual officer's attitudes as well as on the length of time required to verify the prostitute's identity (e.g., the longer it has taken to prove that the woman has lied, probably the more likely the investigating officer will lay an obstruct justice charge).

Apprehending Customers

All customers are apprehended by undercover policewomen acting as prostitutes. Policewomen do not dress in a "provocative manner," especially in the winter when they are obliged to stand outside for almost a whole shift. Up to four policewomen may work the same corner. Working prostitutes leave the area when they realize that there is a police operation taking place.

The evidence required to proceed with a communicating charge against a customer is similar to that for prostitutes. Preferably the customer must offer a sum of money or other objects of value (such as drugs) for a sex act. However,

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[15]According to both police and prostitute interviews.

convictions have been obtained when the customer asked the price of a specific sex act and the policewoman responded. One case was dismissed when the customer asked for the price, but then said he had no time now, and asked if the officer be around in a few days. The court found that no actual act was contracted (Figure I, Appendix B, March 1986).

Policewomen are instructed never to enter the customer's car and to stand well back from the car after signalling to her back-up. (At least one officer was dragged by a car when the customer panicked.) When the back-up comes to the driver's window, both officers identify themselves and inform the customer that he is charged with communicating.

After each encounter with a customer, the policewoman records the conversation verbatim in her notebook before returning to her place on the street.

After checking the customer on the police computer (for outstanding warrants, etc.), he is usually given an appearance notice. Very few customers are held overnight for a show cause hearing – less than 2 per cent were detained according to our analysis of police file data.

As with prostitutes, police rarely exercise their discretion not to charge customers. Police reported only one instance when the customer who had "cracked" was not charged: the man's wife had recently died of cancer.

5. Counter-measures by Prostitutes and Customers

A variety of techniques to avoid being charged were mentioned by prostitutes and police. In this section, we first describe the methods used by prostitutes to detect whether the prospective customer is an undercover police

officer, followed by the methods used by customers.

Measures by Prostitutes to Avoid Communicating Charges

Some women interviewed, especially those working on Queen Street West, mentioned that the only method they used was to ask the customer if he was a police officer. Most believed that the officers must tell the truth. This misunderstanding led many women to term police enforcement "entrapment" when they are charged after inquiring whether the customer was an officer, and the reply was in the negative.

Another common response by prostitutes to the question on avoidance methods was "instinct" or "judgment," Some women (and males for that matter) prided themselves on their ability to distinguish police from other customers. (Alternatively, they may have assumed a more fatalistic attitude than others – in the vein of "what will be, will be.")

Two methods that have apparently been employed in many areas of Canada are asking the customer to expose his genitals[16] and/or asking the customer to touch the prostitute's breast. A variant on these "touching techniques" is to ask to touch the customer's genitals (or, as an officer commented, "they grab your crotch"). Although one police respondent said his response was "go ahead," this was not mentioned by others.

Almost all officers interviewed discussed these methods. A few officers suggested that touching the woman could not be viewed as an assault because she had consented. Most officers said that they would not touch a prostitute, citing

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[16]This tactic was much more often reported by women working on the downtown strolls than on Queen Street West (36 per cent versus 15 per cent).

potential embarrassment in court, negative reaction from their wives and general impropriety as their reasons for not doing so. None of the Toronto police said they had exposed themselves.

Police had developed responses to the following methods used by prostitutes:

- Pat the customer's sides for a gun or a beeper. Officers do not wear their guns or beepers or hide them when on "communicating" duty.

- Ask to see identification or to look at the customer's wallet. Some officers carry false I.D. Some carry two wallets and show the prostitute the one without the police I.D.

- Check for personal belongings on the assumption that police or rental cars would lack them. Officers make both rentals and police cars seem more "lived in" by placing baby seats, briefcases or jackets on the back seat. Some strew wrappers from convenience food around the car.

- Search the car – flip the visors down, rifle under the seat and check the glove box – for evidence that the car is a police car. Officers try to remove such evidence – police radios, amber lights, parking stickers – beforehand.

- Check for keys on the key ring – if there are only one or two the assumption is made that the car is rented and the customer is likely to be a cop. Officers put their own keys on the rings of rental/police cars.

There were no counter-tactics developed by the police for the following methods that have been used by prostitutes:

- On the assumption that the vast majority of private cars have radios, if there is none, the car is a police car.

- Some prostitutes memorize the license plates of cars known to be police cars. One prostitute interviewed said she went to the length of bending all the plates of unmarked cars parked in the police station's

lot: if a car had a bent license plate, it was a police car.

- Some prostitutes ask the customer to take a "toke" (a drag on a marijuana cigarette) on the grounds police will not do so.

- Before naming a price for a sex act, the prostitute gets in the car and asks the customer to drive around the block. She checks to see if the car is being followed by back-up personnel.

Some women have become extremely clever in avoiding stating a price and are virtually invulnerable according to a few officers interviewed. These women do not discuss price until they are in a hotel room (which they are aware is not a public place), or they attempt to get the customer to make all the verbal commitments without themselves listing their menu or their prices. On the other hand, other officers said there were few if any "untouchables," because at some time or another all prostitutes need money and forgo their usual defensive techniques.

Perhaps it is this element more than any other which has made police enforcement of s. 195.1 a "word game" or "whose line is better?"[17] Some women talk to officers for as long as 15 minutes without communicating; in these situations the officer will make some excuse and return the woman to her part of the stroll.

Another tactic that is virtually impossible for police to counteract is the practice of prostitutes to work in teams of two to four. Police report that, by working together, the probability is increased that someone will recognize either

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[17]The game-like nature of the process is exacerbated by differences among the judiciary in their views of the evidentiary requirements of the charge. According to some police, judges differ in the type of evidence they will accept from the investigating officers.

the officer or the car.

Interviews with street prostitutes revealed that many avoided being charged with communicating by using the telephone. Nearly one-half of the women said they at times made arrangements with their dates over the telephone. After meeting on the street, the customer gives her a number – either of his home or more likely a booth – the woman calls and makes the arrangement without "communicating" publicly. (Conversely, the woman might give the customer the number of a nearby booth, and the customer calls her.)

Finally, several prostitute respondents mentioned that the bulk of their business was with "regulars" and in that way they avoided being charged. While all women who were asked said they had regulars, we do not know what proportion of their total number of dates is with persons known to them. Certainly, a number of times when interviewing women on the street, they were approached by men they had dated in the past.

In summary, street prostitutes have developed various tactics to avoid being charged by the police. Some methods have been (apparently) successfully countered by police, while other techniques to avoid or minimize the likelihood of apprehension are virtually impossible for police to overcome.

Measures by Customers to Avoid Communicating Charges

Police reported that customers observed during enforcement were much less likely to use techniques to avoid police than were prostitutes. Most customers ask the undercover policewoman if she is an officer. A minority ask to touch the policewoman. More recently, however, officers noted that more customers were "hinky" (nervous) and had developed "counter-surveillance techniques." Customers

drive around the block several times, or park near the policewomen-prostitutes and watch the action for some minutes. By doing so, customers can ascertain if others are being taken aside and ticketed.

Almost all prostitutes interviewed on Queen Street said that their customers' only strategy was to ask if they were policewomen. The downtown interviews with prostitutes showed quite a difference picture.[18] Only 30 per cent of prostitutes reported that all the customer did was to ask if she was an officer. Almost one-half said that the customers would ask to touch them on the breast. Male prostitutes interviewed said their customers either took no precautions or only asked if they were police.[19]

6. Organizational Changes and the Costs to the Police to Implement Bill C-49

Several of the organizational changes required by police to implement Bill C-49 have already been touched on:

- The organization and implementation of regular, large-scale sweeps of prostitutes and customers by the Morality Bureau, with manpower provided by a number of divisions from across the city.

- The development of a special project to clear the Lakeshore area of street prostitution. Project Spinner involved the secondment of eight plainclothes officers from Number 2 District Major Crimes Unit and six officers maintained a watching brief over the area in 1987-88.

- The addition of 90 foot patrol officers in 1987-88 to the staff complement of the police. Their responsibilities are to walk the beat in the areas affected by street prostitution.

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[18]Part of the reason for the Queen Street-Track I difference *may be* that the downtown interviews took place two or more months later and the intervening publicity had alarmed more customers.

[19]Customers of male prostitutes have not been charged in Toronto.

- The reallocation of uniformed personnel in the affected divisions. Uniformed officers on foot and in cruisers are concentrated in neighbourhoods with street prostitution.

- The reallocation of the time of plainclothes officers in some of the affected divisions, so that the morality units spend more time than in the past of street prostitution.

Other organizational changes were mostly found in the Morality Bureau:

- At the request of Metro council, a four-member Juvenile Task Force was created within the Morality Bureau. Additional monies were allocated (about $85,000) by the Council to Morality for these officers and cars. Two officers came from the Juvenile Task Force in 52 Division, and two were from other divisions (i.e., there were no additional person-years for the Force as a whole).

- The Morality Bureau obtained a data analyst from 51 Division to assist in identifying prostitutes. Additional clerical support was received to assist in the paperwork generated by the sweeps.

In some divisions, the changes required to implement the communicating law brought no managerial problems for unit commanders – or at least none they were willing to comment on. In others, senior officers reported that they were forced to balance, on almost a daily basis, the need to concentrate police resources on street prostitution and enforcement requirements in areas other than street solicitation, such as a rash of break and enters or purse snatchings in the division. The allocation of so much manpower – particularly plainclothes personnel – to street prostitution was a source of ongoing concern to these senior officers faced with juggling multiple priorities.

The issue of the costs of implementation to the police is a harder one to get at. The Metropolitan Toronto Police was not able to provide this research with estimates of the total costs required to implement Bill C-49 in 1986-87.

Undoubtedly, many of the costs are buried in a number of line items and are impossible to retrieve. However, in April 1988 the Morality Bureau provided the Board of Police Commissioners with the estimated costs to control street prostitution in 1988.

These estimates indicate that the equivalent of 32 full-time officers are required to implement Bill C-49 in 1988. Their salaries account for $1,555,000 and overtime is estimated at $258,000. Other costs include rental vehicles and gas ($15,000) and pagers ($7,680). The total cost for 1988 for these plainclothes personnel and their associated expenses is therefore $1,835,680. It is noteworthy that these official police estimates do not include the costs of civilian clerical time to process the charges, and of manpower from the plainclothes and uniformed branches who assist in the sweeps and who undertake routine enforcement and monitoring the street.

Although not directly attributable to Bill C-49, the addition of 90 foot patrol officers to the staff complement of the Force is a cost associated with street solicitation. The addition of these officers is estimated as costing the Force $4,500,000 in 1988. (In 1987 police estimate that extra foot patrols cost $640,000.)

Thus, even though there is no information on the total costs to the police to implement the law in 1986-87, these estimates for 1988 suggest that they were substantial. Moreover, they do not include special projects. An officer involved in Project Spinner, the task force directed at prostitution on the Lakeshore track, suggested that personnel salaries, court overtime, clerical staff and rental cars probably cost the Force "in the millions."

As the estimates cited above indicate, one of the major costs to the police in implementing the law is officer overtime. Although overtime can be accumulated in various ways, attendance at court is one of the main generators of overtime work. Because most plainclothes officers are on afternoon or evening shifts, a court appearance means that they are usually off-duty and thus receive time and a half, with a four-hour minimum.[20] If a court date for a case in which they have been involved falls on their day off or during their annual leave, the amount is larger. As with other laws with a high volume of charges (e.g., impaired driving) and cases that require many hours of court attendance (e.g., homicide), police officers involved in charging street prostitutes must be paid large amounts in court overtime, thereby increasing the costs of implementation by the police department in a way that may not have been anticipated by the legislators.

In summary, the implementation of Bill C-49 by Toronto Police has been costly to the Force and, by extension, to the taxpayer. Obviously, the costs involved have not gone unnoticed by the Force. They may be one reason that the Metropolitan Toronto Police has formally requested that the Department of Justice amend the law so that uniformed officers can charge offenders on "reasonable and probable" grounds. "The legislation in its present form is only enforceable when the police can use undercover decoys to charge suspects. This not only places great strain on the use of plainclothes police officers, but it does not allow for effective use of uniformed officers" (Letter to the Department of Justice, by the Toronto Police, August 24, 1987).

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[20]Officers are required to attend court when a trial date is set. When the accused makes an indicated plea of not guilty, a trial is scheduled and (usually) two officers involved in the case must appear on the trial date.

B. IMPLEMENTATION BY THE CROWN

Soon after Bill C-49 was passed by Parliament, a senior Crown attorney met with Morality to develop policies and procedures with regard to charging prostitutes and customers; as well, a meeting was held with all police divisions to outline the new law. On the advice of the Crown, the police decided that it was not necessary that police officers be "wired" (to tape record evidence of the conversation). A Crown respondent commented that in Toronto, the courts have shown no reluctance to accept the testimony of police.

There are no province-wide directives or policies with regard to the prosecution of s. 195.1 offences. Crowns in each area are responsible for developing guidelines in conjunction with police.

1. The Constitutional Question

In the first years of the law, the Crown's office has spent a good deal of resources on the constitutional issue. There have been three judgments at the Provincial Court level, but it was the *Smith* case that consumed the most time. In August 1986 Provincial Court Judge Bernhard ruled that the law violated freedom of expression, but opened the way for Crown and defence arguments on whether the communicating subsection of C-49 was a "reasonable limit" as specified in s. 1 of the *Charter of Rights*. About two weeks of hearings were held in the fall of 1986. The Crown called a number of witnesses, including police, city councillors, residents and other citizens affected by street prostitution. A Crown respondent suggested that these hearings helped to educate other judges that street soliciting was "no laughing matter" to be dealt with leniently.

In her July 1987 judgment, Judge Bernhard reversed her earlier decision that the law was unconstitutional and also found that subsection (c) was a "reasonable limit" under the Charter. This case is now under appeal by defence.

The other constitutional cases can be briefly summarized. In April 1987 in *Kazelman et al*, Provincial Court Judge S.M. Harris found that subsection (c) violated freedom of expression. In June Judge DiCecco in *Smith* (her fourth charge) followed Judge Harris' conclusions and found that the part of subsection (c) that states "or in any manner communicates or attempts to communicate with any person" is too wide and not a reasonable limit on freedom of expression. The DiCecco decision is being appealed by the Crown.

2. Crown and Court Workload

The senior Crown interviewed for this research suggested that the communicating legislation has not greatly affected Crown and court workload, and court backlog has not increased because of the law. Trials are "simple," requiring few witnesses. Another Crown interviewed after the large sweeps of customers in November 1987 commented that, while the number of accused did cause some disruption, cases were processed smoothly. (About 450 defendants made their first appearance in a short period of time.) In fact one judge is said to have arraigned all customers on the docket simultaneously to save time.

Another procedure that has been used to expedite court processing is *ex parte* hearings. Although we have no information on how often they occur, it is apparently the practice of some courts to hold an *ex parte* hearing when the accused does not appear for court. The court hears evidence that the officer is satisfied as to the identity of the accused, enters a plea of not guilty on the accused's behalf, the officer gives evidence as to the facts of the offence, and if

the court is satisfied, the judge hands down a sentence. For example, if the offender is sentenced to custody a warrant of committal is issued, and when the police apprehend the offender he or she can be taken directly to jail.

3. Evidentiary Requirements

In terms of the evidentiary requirements to obtain a conviction for "communicating," a Crown respondent agreed that the law was a "prosecutor's dream" as long as "the case unfolds as it normally does." The respondent noted that the undercover officer must be careful in his or her conversation, and make an attempt to get the accused to do most of the talking. The Crown would not approve of police asking leading questions of a prostitute such as "how much for a lay?" although the respondent noted that he had never encountered that situation.

Respondents had encountered few successful defence arguments. Defence counsel in Toronto have argued that the use of street terms for sex acts is not allowable evidence, but the courts have usually accepted the evidence of police that the meaning of the term is widely known on the street. The customer's defence of "curiosity" has also been raised here and according to a Crown its success depends on the credibility of the accused and the court's interpretation of the facts.

4. Crown-Defence Interaction and Sentencing

The Crowns interviewed could offer few generalizations on the situations in which they would engage in negotiations with defence. As indicated by defence (see below), the consensus among these court-based actors is that the law offers little in the way of opportunities for either plea or sentencing negotiations. Although it is not uncommon for the communicating charge to be withdrawn when the offender is convicted on another charge arising from the arrest, this is

not an invariable practice among Crown attorneys.

Particularly with regard to customers, Crowns ask for a "general deterrent" penalty at sentencing. Like impaired driving submissions to sentence, there is an "unwritten prescription" for sentencing requests that has little relationship to offender characteristics.

In the fall of 1987, after a meeting with a senior police officer, the Crowns started to ask for heavier sentences for customers. Whereas previously they had asked for small to medium fine amounts, Crowns now requested that the court sentence the customer to a fine of $1,000. To support this submission, at the hearings of customers charged in the November sweeps, citizens' groups prepared victim impact statements and were available to testify on the continuing distress and inconvenience caused by prostitutes and their customers. The strategy was to try to persuade the court that the offence was not an inconsequential victimless crime.

In making submissions to sentence for prostitutes, the prior record of the accused plays a major role. The policy is to ask for custody if the accused is a repeat offender. If not (if she or he has no prior convictions for prostitution offences), a probation or fine is usually requested, and as with customers, the fine amount requested has increased.

There is no policy with regard to sentencing for young offenders. The *Young Offenders Act* provides more flexibility with regard to sentencing and more dispositions are available.

C. IMPLEMENTATION BY DEFENCE

All defence lawyers interviewed stated that the evidence provided the court for communicating offences make it very difficult to win a case. One respondent said that he pleaded his client not guilty "only if she or he insisted" because "you can't beat the charge." (He also said that some charges were thrown out at first, but not recently.)

Another defence lawyer who had pleaded a number of his clients not guilty had done so almost entirely on the basis of a constitutional challenge rather than on another point of law or on the facts. He did comment, however, that other lawyers have obtained acquittals for customers on the grounds that the accused was merely informing himself of the costs of sexual services (i.e., the defence of curiosity).

One factor that may prevent many prostitutes from pleading not guilty is the lack of legal aid assistance provided them. (According to defence, a legal aid certificate is only obtained by prostitutes when they have multiple charges and or when they have been detained.) Many prostitutes who retain lawyers privately simply want to "get it over with fast" and are reluctant to take advice that they should challenge the law on constitutional or any other grounds.

In the view of two defence, negotiations with the Crown are usually limited to situations when a prostitute has multiple charges plus the s. 195.1 offence. With a communicating charge alone, defence "is not in a powerful position" with regard to negotiations. Noting that he "rarely" initiates negotiations with Crowns, an experienced counsel commented that the "facts of the offence are so standard" that the police have developed a blank form on which offence-

specific details are filled in. Defence counsel commented that because of the policy of the Crown's office, it is difficult to urge Crowns to entertain any deviation from their routine submissions to sentence, particularly for customers. One lawyer believed that the light sentences received by customers means that usually there is "no need to make deals;" indeed, she remarked that there is no need for customers to retain a lawyer because the cost is not worth the result.

It is widely believed among the police, Crowns and defence that different judges view s. 195.1 charges differently and that sentencing is judge-specific. Defence counsel stated that "judge-shopping" by defence is almost impossible in the Toronto Provincial Court.[21] Defence found it difficult to make generalizations about their submissions to sentence, because so often they would tailor their submissions to what they know of the judge's sentencing patterns. Because the sentence is so judge-dependent, in some cases, defence "don't have much to say." Other respondents commented that, depending on the accused, it is sometimes helpful to present details of her social circumstances and background at sentencing; in other cases (e.g., long-time prostitutes) this may do more harm than good.

Because several Ontario cases are presently under appeal to higher courts, some defence lawyers are not contesting the facts of the case and requesting an adjournment until an appeal decision comes down.

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[21]The judge who sits in first appearance court usually keeps the case throughout its court process. Several respondents stated that prostitutes do their own form of "judge-shopping" by failing to attend court when they find that their case is to be heard by a judge known to give harsh sentences. By failing to appear, they take a chance that, when found by the police, they will come before a more lenient judge.

CHAPTER IV:

CASE PROCESSING OF PROSTITUTES AND CUSTOMERS BY THE CRIMINAL JUSTICE SYSTEM

Using police files as the data source, this chapter describes the way in which the police and the courts processed persons charged with "communication for the purposes of prostitution" in 1986 and 1987.

This research collected information on a random sample of charge incidents from case files located in the Morality Bureau, and 14, 51, and 52 Divisions.[1] The records which were coded were the arrest report containing details of the incident and the sociodemographic characteristics of the accused,[2] the reasons for "show causing" the accused (if she or he was detained at arrest), the ancillary charges resulting from the incident, as well as descriptive data on the court process – such as the nature of the plea, the number of hearings and the type of sentence received.

The unit of analysis is the "arrest" or "charge incident," not the individual offender. A number of accused, mostly prostitutes, are therefore "counted" more than once because they had more than one charge of communicating.[3]

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[1]21 Division files were not accessed due to time and budget restraints, and the data reported here therefore do not include all police charging activity on the Lakeshore.

[2]See Chapter V for a description of the sociodemographic characteristics of prostitutes and customers.

[3]Unfortunately it was not possible to link arrest records so that the individual offender could be the unit of analysis.

The data were collected in the fall of 1987; the sample represents all charges between January 1986 and (about) August 1987 which were concluded at the time of data collection. Court proceedings had ended either because a sentence had been imposed or because the proceedings had ended prematurely because the accused had not appeared for court.

The project staff coded data on the arrests of a random sample of 765 prostitutes and 401 customers. However, we used different sampling fractions for different data sources (i.e., Morality and three divisions). For this reason, the samples of arrests have been weighted to represent the total population of arrests occurring between January 1986 and August 1987.[4] The population estimate derived from our weighted sample contains 2,260 male and female prostitutes and 1,534 customers. Three-fifths of the study sample are prostitutes and two-fifths are customers.

To confirm the representativeness of our random sample, we compared its characteristics with official arrest statistics compiled by the Metropolitan Toronto Police.

Official police statistics do not categorize s. 195.1 offences by the actor status of the accused (that is, whether a prostitute or customer), but by gender. As the first column of Table IV.1 shows, in the first two years of the law the Metropolitan Toronto Police laid 5,368 charges of communicating; 52 per cent of the total involved males and 48 per cent, females.

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[4]See Appendix A for a detailed discussion of the sampling and weighing procedures.

Table IV.1 (columns two and three) shows that the police statistics and the population estimates based on our sample have almost identical breakdowns by gender: this suggests that the sample is representative. The difference in total numbers between official statistics and the study's population estimates may be because of time lags in court processing, that is, a substantial proportion of 1987 cases would not have been completed at the time of data collection in late 1987.

TABLE IV.1

CHARGES UNDER S. 195.1 (c): OFFICIAL POLICE STATISTICS AND SAMPLE POPULATION ESTIMATES, 1986-1987

	Official Police Statistics		Population Estimates
Gender of Accused	1986-1987	Jan. 1986-Sept. 1987 (percentages)	Jan. 1986-Aug. 1987
Male	52.1	46.6	47.3
Female	47.9	53.4	52.7
Total per cent	100.0	100.0	100.0
Total number	5,368	4,177	3,794

Notes: Population estimates represent cases whose court process had been completed or whose process had ended because of a bench warrant.

Most males charged were male customers of prostitutes, and not male prostitutes. (See the next section.) All the women charged were prostitutes.

The remainder of this chapter analyses the empirical data recorded from police files on the following topics:

- Changes over time in the number of prostitutes and customers

charged by the Toronto police. How equally has the law been applied by the police to prostitutes and customers, and to male and female prostitutes?

- The way in which prostitutes were processed by the police and the courts: the location of the incident, pre-trial detention, the nature of the court process they experienced, conviction rates, sentencing, two legal factors related to sentencing and changes in sentencing between 1986 and 1987.

- The manner in which customers have been processed by the police and the courts under the same topics as for prostitutes, above.

- How equally has the law been applied by the courts in terms of the sentences imposed on customers and prostitutes?

- Attitudes toward sentencing and its deterrent effects – the differences between perception and reality.

A. EQUAL APPLICATION OF THE LAW BY THE POLICE

One purpose of Bill C-49 was to create legislation that applied equally to prostitutes and customers. Under the earlier s. 195.1, higher courts in British Columbia and Ontario had differed in their rulings with regard to customer liability for charges, and the new law was intended to clarify that situation.

In the study sample, 40 per cent of those charged with a s. 195.1 offence were customers and 60 per cent were prostitutes. Of the males charged, 85 per cent were customers. If we apply this ratio to the official statistics for 1986 and 1987 that are found in Table IV.1 (above), we can roughly estimate that, for the first two years of the communicating law, 45 per cent of the persons charged were customers and 55 per cent were prostitutes. The difference between the proportion of customers in the study sample and in the official statistics is probably due to the concentration by the police on customers during the last few

months of 1987. (About 550 charges were laid against johns in November and December by the Morality Bureau.) It therefore appears that the Toronto police applied s. 195.1 approximately equally to customers and prostitutes when the first two years are considered together.[5]

As Figure IV.1 shows, however, this was not the case for most of 1986. Until December 1986, more prostitutes than customers were being charged on a monthly basis. By mid-1987 more customers were charged per month than were prostitutes and, as indicated above, this trend continued after data collection ended. The peaks in Figure IV.1 (for example, in October 1986 and January 1987) are caused by the irregular, large-scale sweeps coordinated by the Morality Bureau.

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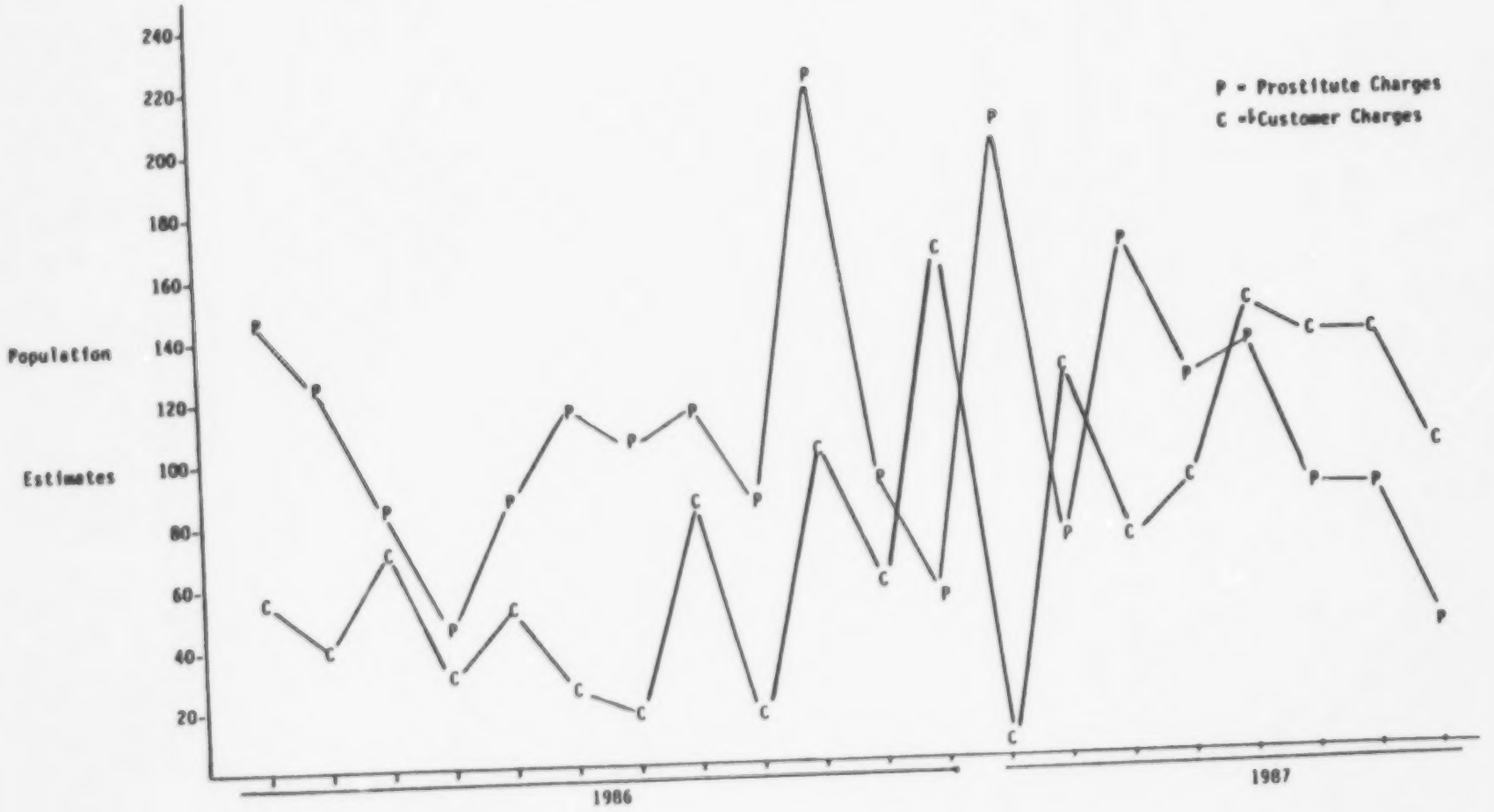
[5]Official police statistics show that in the second year of the law, enforcement markedly increased, especially for males. Between 1986 and 1987 there was a 300 per cent increase in the number of males charged (largely customers) and for females, the increase was 60 per cent. That is, the law was much less "equally applied" in 1986 than in 1987.

FIGURE IV.1

POPULATION ESTIMATES OF NUMBER OF PROSTITUTES AND CUSTOMERS CHARGED: JANUARY 1986 TO AUGUST 1987



There are two other issues with regard to equal application of the law by the Toronto police. First, the arrest data collected for this research show that male prostitutes were much less likely to be charged than were female prostitutes. Senior officers state that there are two reasons for this: many officers are reluctant to operate in the male prostitution area (although "they would if they were ordered to"); and the hustler area has received lower priority because it is less visible to the general public and has produced fewer complaints to police. Several line officers acknowledged that they were reluctant to act as customers of hustlers, but also suggested that the track's small area and the close-knit nature of Track II prostitutes made it difficult to launch an undercover operation without it quickly becoming known that one was "going down."

A second, and related point is the unequal application of the law with regard to customers in the Track II area. For the reasons cited above, no customers have been charged in the male hustler track.

B. THE PROCESSING OF PROSTITUTES

1. The Spatial and Temporal Location of the Charge

Approximately 70 per cent of prostitutes were working in the downtown Track I at the time of their charge, with Queen Street West accounting for 14 per cent of the charges and the Lakeshore track for 10 per cent. About 5 per cent of the communicating charges were laid in the male track (Track II) in the central city and 3 per cent were in "other" locations, such as on Yonge Street and in downtown hotels and bars.[6] Over three-quarters of the "communications" occurred

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[6]Officers from 52 Division were the only police who laid charges "indoors." These charges were laid primarily in hotel bars and were usually precipitated by management complaints, according to police interviews.

on the street, but the definition of a car as a public place has been of moderate assistance to the Toronto police: one-fifth of the incidents took place in the car of the undercover officer.

Interviews with police and prostitutes indicated that some prostitutes work in the day – by preference, to avoid the police and to keep curfews imposed by the court. Only 6 per cent of the prostitute sample was charged between 8 a.m. and 5 p.m., suggesting that in fact prostitutes were less likely to encounter police during the day. (No sweeps by Morality occurred before 7 p.m. in 1986 and 1987.) The bulk of the charges (62 per cent) were laid between 10 p.m. and 1 a.m., but 11 per cent were charged between two and four in the morning. Shifts of undercover officers generally end at 2 or 3 a.m.

More than three-fifths of arrests took place on a Wednesday, Thursday or Friday, with almost one-half of prostitutes being charged on Thursday or Friday – which were the days of the week when Morality most often conducted the sweeps.

2. Pre-trial Detention

Two-thirds of prostitutes were released on the street with an appearance notice. Overall, about 3 out of 10 prostitutes were detained overnight for a show cause hearing. As discussed in Chapter III, there was a change over time in the proportion of prostitutes who were detained and "show caused." During the first six months of 1986 a very small proportion of prostitutes were held (about 5 per cent); later, as a result of a policy decision by the Toronto force, the proportion increased to about 40 per cent in 1987.

Of prostitutes who were released, 95 per cent were given appearance notices (in the jargon, "8.1's") rather than other forms of release and 90 per cent were released within about one hour of the incident. This latter percentage shows that, in most cases, police inquiries into the background and identity of the prostitute were not lengthy.

Police records often contain a number of reasons for the decision to "show cause" a prostitute. In almost every case (88 per cent), the records noted the length of time the person had been a prostitute and that he or she had no other means of support. Other than these routine comments, between 35 per cent and 45 per cent of detained prostitutes were alleged to have no fixed address, to have had charges of communicating in the past, or to have a history of failure to attend court and/or breaches of an undertaking or an outstanding bench warrant. Other reasons for detention included an inability to identify the prostitute (one-fifth of the total). These reasons cited by police address the grounds for detention in the *Bail Reform Act* and case law: the likelihood of attending court (or roots in the community) and the likelihood of continuing their illegal activity if permitted to be released on the street.

Just less than 30 per cent of prostitutes held by the police for a show cause hearing pleaded guilty at the first opportunity, thereby removing the need for a decision with regard to their bail/detention status. Of those who had bail hearing(s), the large majority (84 per cent) were released by the court, usually on an Undertaking with a surety. The amount of the surety, or less frequently a cash deposit, was typically $500.

Prostitutes who were detained at arrest generally were held for brief periods.[7] About one-fifth (22 per cent) of detainees were released the same day they were arrested and a further one-half were released on the day after the arrest. Only 9 per cent were held for longer than one week.

The conditions of bail were found in only about two-fifths of the police documents used for this research. The following proportions should therefore be viewed cautiously, as we have no way of knowing if this subgroup of releasee received similar conditions as the total population. The three most frequently found bail conditions were: area restrictions (81 per cent), curfew (64 per cent) and report to the police Bail and Parole Office at regular intervals (66 per cent).[8] About 3 out of 10 prostitutes were released to the Bail Program, which is a program designed to permit accused not otherwise eligible for release to be returned to the community under supervision.

3. Court Processes

The number of hearings, the time between the first and final hearing, the nature of the pleas made, failures to appear and bench warrants are described in this section. While we did attempt to collect data on the type of legal representation acting for the accused prostitute (none, duty counsel or retained lawyer), in 46 per cent of the cases this information was missing from police

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[7]Note, however, that some persons experienced more than one stay in detention as a result of bench warrants during their court process.

[8]In interviews, prostitutes were asked if they had been ordered to stay out of certain areas; about three-fifths said they had, and the same proportion said that the order had affected their work. About three-fifths of the latter group had changed the area in which they worked as a result of the court order.

files.[9]

Slightly less than one-quarter of the prostitutes had only a single court hearing, and approximately two-fifths (43 per cent) had one or two hearings. However, about one-quarter (28 per cent) had five or more hearings, with 13 per cent having seven or more. In our sample, the largest number of hearings was 22.

The mean number of days between first and last hearing was 68; on average therefore, the cases required slightly more than two months to be completed. The median number of days was 49. One-quarter of the total took three or more months to be dealt with.

Three-quarters of the prostitute sample pleaded guilty to the communicating charge, 16 per cent made no plea because the charge was terminated pre-adjudication and 8 per cent made a final plea of not guilty. The nature of the final plea was related to the presence and type of lawyer acting for the accused. Prostitutes who had retained counsel were much less likely to plead guilty than were those who went unrepresented or relied on duty counsel. The nature of the final plea was not associated with the prior record or current legal status of the prostitute.

Of prostitutes who pleaded not guilty to their communicating charge, only a small fraction (16 per cent) were found not guilty by the court. An equally small group (15 per cent) had their charges withdrawn or otherwise terminated prior to

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[9]For those cases where type of representation was recorded, 65 per cent had retained lawyers. Interviews with defence and prostitutes indicate that Legal Aid is not regularly available to prostitutes charged with s. 195.1; we therefore assume that most lawyers were privately retained.

adjudication. Pleading not guilty therefore resulted in a conviction for most prostitutes (69 per cent were found guilty).

In the Toronto Provincial Court, a bench warrant is automatically issued when the accused does not appear for a scheduled hearing. Almost two-fifths (38 per cent) of prostitutes failed to attend court at least once and had a bench warrant issued. The majority of this group was apprehended by the police and spent additional days in detention as a consequence.[10]

Post-arrest periods in custody[11] tended to be longer than those occurring at arrest. Although about one-half of those held post-arrest spent one or two days in custody, 30 per cent were detained from 8 to 34 days. Only 9 per cent of those detained at arrest were held 8 days or more.

Fourteen per cent of the total sample of prostitutes were not apprehended by the police. That is, at the time of data collection for this research, 14 per cent of the sample had missed a court date *and* had an outstanding bench warrant.

One of the major police complaints about the communicating law is that it is a summary conviction offence and consequently the accused cannot be fingerprinted. They argue that, if the offence were made hybrid where accused can be legally fingerprinted, the number of times a prostitute successfully lies about his or her identity and fails to attend court would be reduced. The demands on police resources (e.g., paperwork and apprehension efforts) are increased with

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[10]About one-fifth of the total prostitute sample was detained after the first hearing as a result of a bench warrant.

[11]i.e., stays in detention that did not result from the original arrest, generally arising from a bench warrant issued after a failure to appear.

bench warrants. Although it is improbable that all fail to appears are the consequence of an inability to fingerprint, the cases (14 per cent of all prostitutes charged) where the bench warrant was not served because the accused could not be located might be decreased by fingerprinting.

4. Conviction Rates

More than four-fifths (82 per cent) of prostitutes were convicted on the communicating charge, which precipitated the charge incident; 14 per cent had this charge withdrawn or stayed. Only 1 per cent of prostitutes were found not guilty by the court or had the charge dismissed.

However, the 82 per cent conviction rate is misleadingly low, as a substantial proportion of prostitutes had their charges withdrawn because they pleaded guilty to other charges or counts.[12] When this feature of the court process is taken into consideration, the conviction rate for the "charge incident" (as opposed to the communicating charge itself) rises to 92 per cent.

The other charges to which prostitutes pleaded guilty and on which they were convicted were usually failure to comply with a court order or failure to attend court, or other charges related to the administration of justice. Although police file data usually did not specify the other offence on which the guilty plea was made, we can provide the proportions of the total sample which had charges other than communicating being dealt with:

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[12]Sixty-nine per cent of withdrawals and other pre-adjudication terminations of the communicating charge were done because the prostitute pleaded guilty to other charges. Other reasons for withdrawals include: constitutional argument was accepted (10 per cent), insufficient evidence (9 per cent) and "technical" reasons, such as a defect in the information (3 per cent).

- failure to comply/failure to attend court, 12 per cent;
- other charges related to the administration of justice, 5 per cent;
- multiple communicating charges, 4 per cent;
- other prostitution-related charges, such as indecent act, 3 per cent; and
- drug or weapons charges, 2 per cent.

Prior record (operationalized as prior convictions and prior communicating charges), legal status at arrest (e.g., on probation) and the number of current charges showed no statistically significant relationship to whether or not the prostitute was convicted.

On the other hand, a court processing variable – the type of defence counsel acting for the prostitute – was statistically associated with the conviction rate. Prostitutes with retained counsel had a slightly lower conviction rate (87 per cent were found guilty), when compared with those with no lawyer (97 per cent) or those relying on duty counsel (99 per cent).[13]

5. The Type of Sentences Received for Communicating

No one court sentence for prostitutes predominates: equal proportions (13 per cent) of prostitutes received absolute and conditional discharges; 12 per cent received a suspended sentence; 30 per cent were fined; 10 per cent were placed

[13]As mentioned in the last section, a large proportion of cases had missing data for type of counsel, so these proportions should be viewed with caution. Furthermore, the causal direction is unclear: whether prostitutes who intended to plead not guilty retained counsel or whether the retention of counsel preceded and influenced the decision as to plea.

on probation; and 23 per cent were sentenced to a period in custody.[14]

The fines imposed on prostitutes were generally quite light: one-quarter of the sample were fined $50 or less; about one-half had to pay between $75 and $100; and only 15 per cent were fined $200 or more. Fines ranged between $10 and $300.[15]

The majority (77 per cent) of prostitutes sentenced to probation received terms of 12 months or less. Probation conditions are often not recorded in police files, so the following proportions should be viewed very cautiously: about one-half (55 per cent) of prostitutes whose conditions were known had community service as one condition and about one-fifth were ordered to stay outside of prostitution areas and/or meet a curfew.

In 1986-87 just less than one-quarter of prostitutes were sentenced to a period of imprisonment. About 30 per cent received a one-day sentence and slightly more than one-half had sentences of one to seven days in custody. Almost two-fifths (37 per cent) of prostitutes were sentenced to 8 to 30 days. Only 7 per cent of the group who were incarcerated received more than 30 days. The longest custodial sentence in the sample was 90 days.

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[14]Conditional discharges and suspended sentences include persons who also received a period of probation. If multiple dispositions were imposed for the communicating charge, the most serious sentence was coded; however, other than the combination of probation with conditional discharges and suspended sentences, there were few multiple sentences. Most persons who received probation on its own were young offenders.

[15]In early 1988 a Provincial Court judge sentenced a prostitute to a 25 cent fine after hearing submissions that the prostitute was on welfare and had children to support.

6. Legal Factors Associated with Sentences

Because the courts often take into consideration "legal" factors at sentencing, we examined two legal variables – prior record and the number of current changes – in relation to the type of sentences received by prostitutes.

Prostitutes with prior convictions received more severe sentences than did those with no convictions prior to this charge incident (Table IV.2). Prostitutes with no earlier convictions disproportionately received absolute and conditional discharges when compared with those with prior convictions. For example, 26 per cent of prostitutes without a conviction in the past were discharged absolutely versus 9 per cent or fewer of those with a record. The type of conviction also appears to be associated with sentence severity, in that prostitutes with prior communicating convictions were most likely to be sentenced to imprisonment (39 per cent), followed by 28 per cent of those with a past record but not for communicating, and 12 per cent with no formal record.

Because young offenders receive markedly different sentences from adults (see Chapter VI), young offenders have been excluded from Table IV.3. When we contrast adult prostitutes with and without earlier communicating convictions, 45 per cent of the former but only 20 per cent of the latter were imprisoned. Although prostitutes in these two groups were equally likely to be fined (33 per cent and 32 per cent respectively), one-third of those with no earlier "communicate" conviction but only 3 per cent of prostitutes with a conviction of this kind, were discharged either absolutely or conditionally.

When the relationship between the presence of multiple charges and sentences was examined, the findings were similar. Prostitutes with more serious current involvement with the criminal justice systems (more than one current

charge) received more severe sentences. One-fifth of the single charge group, compared with one-third of those with multiple charges, were sentenced to custody.[16]

This analysis has shown that two legal factors – prior record and the number of current charges – tended to result in more serious sentences for prostitutes, suggesting that the Toronto courts are not as quixotic in their sentencing practices as some critics have maintained.

7. Changes in Sentences between 1986 and 1987

We investigated the extent to which sentencing practices changed between the first and second year of the communicating law. Again, we have excluded young offenders from the analysis because of their different sentencing patterns.

As Table IV.4 shows, adult prostitutes were twice as likely to be sentenced to custody in 1987 as they were in 1986. There are two possible explanations for this difference: (a) as time went on, prostitutes had accumulated communicating and other convictions and it was their prior record that produced the difference in sentencing; or, (b) there was an increase in judicial severity against prostitutes regardless of prior record.

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[16]These data are for the total sample; young offenders have not been excluded. See Appendix B, Table IV.27.

TABLE IV.2

TYPE OF SENTENCE RECEIVED, BY PRIOR CONVICTIONS: PROSTITUTES

	No prior conviction	Prior conviction(s): not for communicating	Prior conviction(s): for communicating	Prior convictions type not known
	(percentages)			
Absolute discharge	25.9	5.4	1.7	9.2
Conditional discharge	23.3	8.3	0.7	13.8
Suspended sentence	4.5	16.3	15.4	16.1
Fine	23.5	33.5	37.9	30.0
Probation	10.6	8.9	5.1	13.8
Custody	12.2	27.7	39.3	17.1
Total per cent	100.0	100.1	100.1	100.0
Total population estimate	557	484	293	217

Chi-square = 118.860 df = 15 $p < .000$

TABLE IV.3

TYPE OF SENTENCE RECEIVED, BY THE EXISTENCE OF PRIOR COMMUNICATING CONVICTIONS: ADULT PROSTITUTES

	No prior conviction for communicating	Prior conviction(s) for communicating
	(percentages)	
Absolute discharge	15.1	2.1
Conditional discharge	18.1	0.8
Suspended sentence	11.3	16.7
Fine	31.8	33.3
Probation	3.5	2.1
Custody	20.2	45.0
Total per cent	100.0	100.0
Total population estimate	935	240

When adult prostitutes were divided into those with and without prior convictions, there remained a difference by year in the proportions receiving more severe sentences (Table IV.5). Among those with no prior convictions, 17 per cent were incarcerated in 1987, compared with 8 per cent in 1986. Among adult prostitutes with earlier convictions, 43 per cent received custody in 1987, compared with 23 per cent in 1986.[17] This analysis suggests that there *was* an

[17]It could be argued that, by operationalizing prior record as prior convictions, we are ignoring the effects of communicating charges *per se* on sentencing over time. Data not shown in table form reveal identical patterns to

increase in severity of sentence from 1986 to 1987 that is not accounted for by prior record.

C. THE PROCESSING OF CUSTOMERS

As a result of the intensification of police enforcement of the communicating law against the customer in the second year, about 45 per cent of the persons charged in 1986-87 were johns. In this section their processing by the police and the courts is described. In many areas it is apparent that the customer is dealt with differently from, and generally more leniently than, prostitutes.

1. The Spatial and Temporal Location of the Charge

Approximately equal proportions of customers were charged in the central city Track I (42 per cent) and on Queen Street West (36 per cent); about one-fifth were charged on Lakeshore Boulevard West in Etobicoke. Queen Street and the Lakeshore accounted for about one-quarter of charges laid against prostitutes, whereas they made up more than one-half of the customer charges. As we discussed in the last chapter, policy decisions by unit commanders resulted in a greater concentration of effort on the customer in these areas.

Because policewomen acting as decoys are instructed not to enter the customer's cars, 99 per cent of customers were apprehended on the street. Few customers have been charged in "indoor" locations such as bars.

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those reported here. Among adult prostitutes with no prior communicating charges, 13 per cent received custody in 1986, versus 25 per cent in 1987. Among prostitutes with prior communicating charges, 30 per cent received imprisonment in 1986, compared with 48 per cent in 1987.

TABLE IV.4

TYPE OF SENTENCE RECEIVED, BY YEAR: ADULT PROSTITUTES

	1986	1987
	(percentages)	
Absolute discharge	11.2	12.5
Conditional discharge	20.5	6.9
Suspended sentence	13.7	12.3
Fine	32.9	31.7
Probation	4.4	2.2
Custody	17.3	34.4
Total per cent	100.0	100.0
Total population estimate	815	552

Chi-square = 29.025 df = 5 $p < .000$ Gamma = .247

Almost all customers were charged in the early evening from 6 to 9 p.m. (28 per cent) or from 10 p.m. to about 1 a.m. (69 per cent). Observational and interview data indicate that there are many customers circling the daytime strolls, but until the spring of 1988 police practice was to mount both the sweeps and smaller scale decoy operations primarily between 6 p.m. and 2 a.m.

TABLE IV.5

TYPE OF SENTENCE RECEIVED, BY YEAR AND THE EXISTENCE OF PRIOR CONVICTIONS: ADULT PROSTITUTES

	No prior conviction		Prior conviction(s)	
	1986	1987	1986	1987
	(percentages)			
Absolute discharge	23.5	27.7	4.5	3.8
Conditional discharge	36.0	14.1	11.3	2.6
Suspended sentence	3.8	6.0	18.9	16.5
Fine	21.8	32.1	39.3	32.7
Probation	6.9	2.7	3.1	1.7
Custody	8.0	17.4	23.0	42.8
Total per cent	100.0	100.0	100.1	100.1
Total population estimate	289	184	514	346
	Chi-square = 12.990 df = 5 p < .03 Gamma = .146		Chi-square = 17.141 df = 5 p < .004 Gamma = .309	

The day of the week of the arrest was similar to that for prostitutes: Wednesday, Thursday and Friday accounted for about two-thirds of customer charges, with Thursday and Friday accounting for almost one-half of the total customer charges.

2. Pretrial Detention, Court Processes, and Conviction Rates

Very few customers were held overnight for a bail hearing or "show caused"; 97 per cent were released with an appearance notice and 1 per cent were released in other ways (e.g., by the station sergeant). The 2 per cent of customers who were detained for a bail hearing had a history of failure to attend court, to have an outstanding warrant or to have been uncooperative with police (e.g., resisted arrest, attempted to escape or refused to sign the appearance notice).

Customers had much shorter court processes than did prostitutes. One-half were dealt with in one hearing and four-fifths had only one or two hearings. Only 3 per cent of customers had five or more hearings.

As expected, the time lag between first and final appearance was much shorter than the period experienced by prostitutes: the mean days between first and last hearing was 23, and the median was 0 days (because more than half the customer cases were completed in one hearing). (Comparable figures for prostitutes were 68 and 49 days.)

The nature of the final plea on the communicating charge showed a slight difference between customers and prostitutes. Customers were less likely to be in the "no plea" category, and more likely to plead guilty (85 per cent did so). Of the 11 per cent of customers who pleaded not guilty to the charge, only 16 per cent were found not guilty – which was the same proportion as prostitutes; almost 80 per cent of those pleading not guilty were found guilty and 5 per cent had their charges terminated at the trial date.

Although 38 per cent of prostitutes failed to attend court at least once, only 7 per cent of customers did not attend court as required and had a bench warrant

issued as a consequence. Most customers who had a bench warrant were apprehended and very few (14 per cent) of this group stayed in custody more than one day. Compared with 14 per cent of prostitutes, only 2 per cent of customers had their cases prematurely concluded because they did not attend court (i.e., the bench warrant was outstanding at the time of data collection).

The conviction rate for customers was 93 per cent (higher than the 82 per cent rate on the communicating charges of prostitutes). Only 3 per cent of the total customer sample were found not guilty. The reasons for pre-adjudication termination of the charges differed from those for prostitutes. Unlike prostitutes, very few customers had their communicating charge withdrawn because they pleaded to other, concurrent charges (only 7 per cent of withdrawals were for this reason). The most common reason for withdrawals was "technical," such as a defect in the information (42 per cent); a successful constitutional argument (16 per cent); and a potpourri of "other" reasons (28 per cent).

Only 5 per cent of customers versus 20 per cent of prostitutes had more than one charge currently being dealt with by the court.

3. The Type of Sentences Received for Communicating

Almost one-half (47 per cent) of customers received an absolute discharge from the court and another 23 per cent were discharged on condition, usually that the customer should perform community service. Fines were imposed on 27 per cent of customers. Custody was the sentence received by 2 per cent of customers.

One practice of some judges in the Toronto court was to discharge the customer absolutely after the customer had made a "donation" to the court chaplain's office (or less frequently, perform other tasks such as writing an essay

on venereal disease). Some customers were aware of this practice and came to their first hearing with a receipt ready; in other instances hearings were set down or adjourned so that the customer could make his donation. Because this was an "informal" request on the part of the court, there is no mention of these pseudo-fines in either court or police records. This practice avoided giving customers a criminal record and at the same time provided a financial consequence to their lawbreaking.

The fines formally given to customers were marginally higher than those imposed on prostitutes: about one-half of customers had to pay more than $100 compared with about 30 per cent of prostitutes. Customers' fines ranged between $25 (1 per cent of the sample) to $500 (3 per cent).

Probation was frequently given in conjunction with a conditional discharge with a community service condition. Because the length of probation was just long enough for the customer to complete the community service order, more than one-half of customers had a probation term of six months or less, and only 3 per cent were ordered to serve more than one year on probation. The only condition of probation usually recorded in police files was the community service order.

Custodial sentences were short: four-fifths of customers sentenced to imprisonment received only one day and one-fifth received two days.

4. Legal Factors Associated with Sentences

We investigated whether one legal factor, prior record, had any relationship to the severity of sentences received by customers.[18]

Only 3 per cent of the customers had a past communicating charge; 2 per cent had a prior conviction for communicating; and 16 per cent had a prior conviction for *Criminal Code* Offence(s) (of all types, including communicating). The number of customers in the last group is large enough to examine the degree to which the type of sentence for the current "communicate" is related to an offence history.

As Table IV.6 shows, the court appears to take prior record into account at sentencing. Three-quarters of customers with no earlier convictions received an absolute or conditional discharge; the same figure for those with a prior record was about one-half. The proportion who were fined rose from 24 per cent (no record) to 40 per cent (some record). Slightly less than one-tenth of johns with a formal offence history received imprisonment compared with 1 per cent of those with no history of this kind.

5. Changes in Sentences between 1986 and 1987

As time went on, there was mounting criticism of the leniency of customer sentences from both police and community groups. This section examines the change in sentencing patterns between 1986 and 1987.

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[18]Because only 5 per cent of customers had multiple current charges being dealt with during their court process, there were insufficient numbers in the multiple charge category to estimate its effect on sentencing.

It is readily apparent from Table IV.7 that customers were about half as likely to be discharged absolutely in 1987 as in 1986. Conditional discharges increased slightly between the two years, from 19 per cent to 27 per cent, and the percentage who were fined more than doubled (15 per cent to 38 per cent).

It is improbable that these difference are explainable by factors other than changes in judicial attitudes toward sentencing the customer, since the proportion of customers with a prior record did not appreciably change between 1986 and 1987. Whether the courts were responding to pressure from the public, the police or the Crown, or whether they had other reasons for the alteration in sentences, is not known.[19]

D. EQUAL APPLICATION OF THE LAW: SENTENCES RECEIVED BY PROSTITUTES AND CUSTOMERS

In Toronto, the law was (approximately) equally applied in 1986-87, in terms of the proportions of prostitutes and customers charged by police. This section explores whether the seller and consumer of street sex also received similar sentences from the courts.

Customers charged with communicating received less severe sentences than adult prostitutes.[20] Customers were much less likely to receive custodial sentences and about four times as likely to be discharged absolutely (Table IV.8).

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[19]No members of the bench were interviewed by this research.

[20]Young offender prostitutes (i.e., those less than 18 years old) have been omitted from this analysis. This was not necessary for young offender customers since they form only 0.7 per cent of the population estimate.

TABLE IV.6

TYPE OF SENTENCE RECEIVED, BY THE EXISTENCE OF PRIOR CONVICTIONS: CUSTOMERS

	No prior conviction	(percentages)	Prior conviction(s)
Absolute discharge	50.9		35.9
Conditional discharge	24.1		15.7
Suspended sentence	-		-
Fine	23.7		39.5
Probation	.4		-
Custody	.9		9.0
Total per cent	100.0		100.1
Total population estimate	1,124		223

However, this is not necessarily an indication of unequal application of the law, because as we have shown, the court usually takes into consideration certain "legal" factors at sentencing, particularly the prior record of the accused and prostitutes are much more likely than customers to have prior records:

- 16 per cent of customers versus 61 per cent of prostitutes had an earlier conviction on a *Criminal Code* offence; and
- 2 per cent of customers versus 18 per cent of prostitutes had been convicted of "communicating" prior to these charges.

TABLE IV.7

TYPE OF SENTENCE RECEIVED, BY YEAR: CUSTOMERS

	1986	1987
	(percentages)	
Absolute discharge	64.7	32.1
Conditional discharge	18.6	27.0
Suspended sentence	-	-
Fine	15.2	37.5
Probation	-	0.7
Custody	1.5	2.7
Total per cent	100.0	100.0
Total population estimate	657	741

Chi-square = 40.861 df = 4 $p < .000$ Gamma = .522

To assess equality of treatment at sentencing, we divided the samples into comparable groups – those with and without an earlier conviction on a *Criminal Code* offence – and examined differences in sentencing within these groups (Table IV.9).

TABLE IV.8

TYPE OF SENTENCE RECEIVED, BY ACTOR: ADULT PROSTITUTES AND CUSTOMERS

	Prostitutes	Customers (percentages)	Total
Absolute discharge	11.7	47.2	29.6
Conditional discharge	15.0	23.1	19.1
Suspended sentence	13.2	-	6.5
Fine	32.4	27.2	29.8
Probation	3.5	0.4	1.9
Custody	24.2	2.2	13.1
Total per cent	100.0	100.1	100.0
Total population estimate	1,367	1,392	2,759

Chi-square = 224.199 df = 5 p > .000 Gamma = -.623

This comparison shows that, even when prior convictions are taken into account, prostitutes were sentenced more severely than customers:

- Among those with no prior record, 25 per cent of prostitutes and 51 per cent of customers received an absolute discharge; and 12 per cent of prostitutes versus 1 per cent of customers received a custodial sentence.

- Among those with an offence history of some kind, only 4 per cent of prostitutes, but 36 per cent of customers received an absolute discharge; and 31 per cent of prostitutes versus 9 per cent of customers were sentenced to custody.

TABLE IV.9

TYPE OF SENTENCE RECEIVED, BY ACTOR AND THE EXISTENCE OF PRIOR CONVICTIONS

	No prior conviction		Prior conviction(s)	
	Prostitutes	Customers	Prostitutes	Customers
	(percentages)			
Absolute discharge	25.2	50.6	4.2	35.9
Conditional discharge	27.5	24.2	7.8	15.7
Suspended sentence	4.7	-	17.9	-
Fine	25.8	23.8	36.6	39.5
Probation	5.3	0.5	2.6	-
Custody	11.6	0.9	30.9	9.0
Total per cent	100.1	100.0	100.0	100.1
Total population estimate	473	1,118	860	223
	Chi-square = 65.259 df = 5 p < .000 Gamma = -.439		Chi-square = 74.788 df = 5 p < .000 Gamma = -.537	

Cochran-Mantel-Haenszel Statistic (general association) = p< .000

We also investigated whether groups with and without a prior conviction for "communication for the purpose of prostitution" differed in terms of sentence severity (Table IV.10). While there were too few customers with a conviction for communicating to compare them reliably with prostitutes, sentences of prostitutes and customers who did *not* have an earlier conviction for communicating can be

compared. The results are very similar to those reported above. Equal proportions of prostitutes and customers with no prior convictions received conditional discharges and fines, but 49 per cent of customers and only 15 per cent of prostitutes were discharged absolutely, and prostitutes were disproportionately sentenced to a period of incarceration (20 per cent, versus 2 per cent of customers).

Because police statistics and media reports suggest that enforcement efforts against customers were increased in 1987, we examined differential sentencing separately for 1986 and 1987, still maintaining comparable groups of prostitutes and customers with and without prior convictions (Table IV.11).

This analysis shows that, although there was still inequality of treatment of prostitutes and customers in 1987, it was substantially less than in 1986:

- In 1986 about 64 per cent of customers received an absolute discharge, regardless of prior record, whereas only 24 per cent of prostitutes without a record and 5 per cent of those with a record, received an absolute discharge. In 1987 the proportion of prostitutes receiving an absolute discharge was about the same as in 1986, but the proportion of customers had fallen to 37 per cent (no record) and 13 per cent (with prior convictions).

- In 1986 customers were less likely than (comparable) prostitutes to be sentenced to a conditional discharge or a fine; in 1987 they were more likely than prostitutes to receive these sentences. (However, prostitutes remained substantially more likely to be sentenced to custody.)

TABLE IV.10

TYPE OF SENTENCE RECEIVED, BY ACTOR AND PRIOR CONVICTIONS FOR COMMUNICATING

	No prior communicating conviction		Prior communicating conviction(s)	
	Prostitutes	Customers	Prostitutes	Customers
	(percentages)			
Absolute discharge	15.1	49.2	2.1	15.4
Conditional discharge	18.1	23.5	.8	-
Suspended sentence	11.3	-	16.7	-
Fine	31.8	25.3	33.3	46.2
Probation	3.5	.4	2.1	-
Custody	20.2	1.6	45.0	38.5
Total per cent	100.0	100.0	100.0	100.1
Total population estimate	935	1,260	240	26
	Chi-square = 156.720 df = 5 p < .000 Gamma = -.591		Chi-square = 5.319* df = 5 p = .378 Gamma = -.107	

Cochran-Mantel-Haenszel Statistic (general association): p< .000

* Chi-square may not be valid due to low expected cell sizes.

TABLE IV.11

TYPE OF SENTENCE RECEIVED, BY ACTOR, PRIOR CONVICTION(S) AND YEAR

a. 1986	No prior conviction		Prior conviction(s)	
	Prostitutes	Customers	Prostitutes	Customers
	(percentages)			
Absolute discharge	23.5	65.0	4.5	63.4
Conditional discharge	36.0	19.9	11.3	9.9
Suspended sentence	3.8	-	18.9	-
Fine	21.8	14.2	39.3	21.8
Probation	6.9	-	3.1	-
Custody	8.0	0.9	23.0	5.0
Total per cent	100.0	100.0	100.1	100.1
Total population estimate	289	549	514	101
	Chi-square = 50.570 df = 5 p < .000 Gamma = -.610		Chi-square = 76.182* df = 5 p = .000 Gamma = -.731	

TABLE IV.11 (cont'd.)

b. 1987	No prior conviction		Prior conviction(s)	
	Prostitutes	Customers	Prostitutes	Customers
	(percentages)			
Absolute discharge	27.7	36.7	3.8	3.1
Conditional discharge	14.1	28.5	2.6	20.5
Suspended sentence	6.0	-	16.5	-
Fine	32.1	33.0	32.7	54.1
Probation	2.7	0.9	1.7	-
Custody	17.4	0.9	42.8	12.3
Total per cent	100.0	100.0	100.1	100.0
Total population estimate	184	569	346	122
	Chi-square = 34.613* df = 5 p < .000 Gamma = -.332		Chi-square = 30.854* df = 5 p = .378 Gamma = -.470	

Cochran-Mantel-Haenszel Statistic (general association): p < .000

* Chi-square may not be valid because of low expected cell sizes.

The degree of sentencing inequality between prostitutes and customers with comparable prior records is summarized by the "gamma" statistic, which can range from 0.0 (full equality) to 1.0 (full inequality): in 1986 gamma was 0.6 for those with no prior record and 0.7 for those with a record; and in 1987 it had fallen to 0.3 and 0.5.

This lessening from 1986 to 1987 of the differential sentencing of prostitutes and customers was entirely due to the increased severity of the customers' sentences: although the proportions of prostitutes receiving more severe sentences also increased in 1987, these increases were not as great as those of the customers.

E. SENTENCING AND DETERRENCE: PERCEPTIONS AND REALITY

Most key actors are dissatisfied with the penalties imposed by the courts on persons convicted of "communicating," albeit for different reasons and with different degrees of knowledge of what the sentences have been. With regard to the latter point, most persons both inside and outside the criminal justice system rely on impressionistic observations and/or media to form their opinions of sentencing patterns. This report contains the first available overview of sentencing for s. 195.1 offences in Toronto.

Police, Crown attorneys and citizens of areas affected by street prostitution generally perceive sentences as excessively lenient. Defence counsel, along with police and Crowns, often observe that sentences are inconsistent. Social agency staff believe that the sentences of prostitutes are too harsh and that the fines imposed only mean that they have to work harder to pay them off; they believe that johns are dealt with too leniently. Not unexpectedly, prostitutes' rights organizations believe both prostitutes and customers are treated too harshly.

In the view of most police, customers should be given substantial fines, not discharges or fines of $100 or less. In late 1987 Crown attorneys – with support from the police – began asking the courts for $1,000 fines. Some judges responded by fining customers $500 in October 1987 (see Figure 1 in

Appendix B).

There is almost complete unanimity among police in their views of the sentences of prostitutes: low fines are seen as a "license fee" not as a deterrent. Many believe that prostitutes should be fined in ever increasing amounts for their first few convictions and then sentenced to custody on subsequent convictions: to minimize judicial discretion these sentences should be legislated.

Many citizens surveyed also believed that the courts are treating customers and prostitutes far too lightly. About one-half of respondents to the citizen survey (see Chapter VII) reported that they were "very dissatisfied" with the sentences received by both groups, and only about one-tenth stated they were "satisfied."

In December 1987, at the suggestion of a community group (the South of Carlton Community Association), the court gave community service orders to about 20 customers so that the offenders could recompense the community for the inconvenience and distress its members have suffered. The johns were to clean up private property in affected neighbourhoods under the supervision of the community association. These sentences were imposed after residents presented victim impact statements and testified to the effects of john traffic and litter in the neighbourhood.[21] However, according to one spokesperson, the Association believes that the most effective deterrent for the first time offender (customer) is a $1,000 fine.

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[21]Among police there was no general support for these sentences. One officer said that this type of order only makes the customer "angry at the court system and institution of law. The institution is belittling itself."

How valid are these criticisms of the "leniency" of sentencing? Certainly, the empirical data presented earlier in this chapter show that the sentences are increasing in severity for both prostitutes and customers, and that sizeable proportions of prostitutes are receiving jail time. It would be instructive to compare the sentences received for communicating with other "victimless offences" that are also summary conviction in nature. Unfortunately, there are few such summary conviction offences in the *Criminal Code* and there are also few data sources on sentencing patterns in the Toronto courts. However, Hann and Kopelman (1988) analyze 1985 data from the Toronto Provincial Court on sentences for a number of offences, including the relatively minor property offences of "theft under $200" and "fraud under $200."[22] Their analysis found that about 45 per cent of a random sample of such cases received an absolute or conditional discharge. The proportion of adult prostitutes receiving discharges (1986-87) is 27 per cent, and for customers it is 70 per cent.

We recognize that the comparison is a crude one. Theft and fraud under $200 are property crimes, very different from "communication for the purposes of prostitution." Despite this caveat, the difference in the proportions receiving discharges suggests that prostitutes may be dealt with more severely than the minor property offender, and that the opposite may be true for customers.

There is some limited evidence on the deterrent effect of sentencing from the perspective of prostitutes themselves.[23] Almost all prostitutes who had been fined said that the fine had "no effect" on their work. The same was not true for jail time (including pre-trial custody): about one-half said the period in custody

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[22]In 1985 the offences became theft, fraud, etc. under $1,000.

[23]Interview data.

had had some effect on them. Of this group the majority said that the custodial time had made them angry or had other negative effects such as a loss of self-respect. One person said she had to work harder when released. Only one-tenth of prostitutes believed that their imprisonment had had a deterrent effect.

In the view of prostitutes, therefore, fines had little effect on their business activity and custody affected them negatively, but there was little indication that their sentences had stopped them from continuing to work on the street.[24] In effect, the perceptions of prostitutes interviewed were similar to those of the critics of the legislation: sentences imposed were apparently not functioning as a deterrent to those who remained on the street.

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[24]However, our interview data on deterrence are somewhat flawed since the sample of prostitutes interviewed excludes, by definition, anyone who was so thoroughly deterred that she *no longer* worked in street prostitution.

CHAPTER V:
THE PRACTICE OF PROSTITUTION IN TORONTO

This chapter has four objectives: to describe the extent of street prostitution in Toronto by presenting "street counts" of the numbers of prostitutes working the Toronto streets in a nine-month period in 1987-88; to describe the characteristics of the prostitutes who worked the streets in 1987, as well as the characteristics of their customers and pimps; to explore the changes in the street sex trade that resulted from the communicating legislation; and to assess the extent to which off-street prostitution has altered since Bill C-49 came into effect in December 1985.

This chapter thus seeks, first, to portray one of the most visible aspects of street prostitution: how many prostitutes can be seen in random observations of each major prostitution track, at different times of the day and different periods of the year?

Second, the social and legal characteristics of persons currently working as street prostitutes are described and briefly compared with the characteristics of prostitutes working prior to C-49. If different "types" of prostitutes are working now, this is suggestive evidence that the legislation may have played a part in the changes. Also in this section, we present the available information on the characteristics of pimps and customers – two actor categories about which very little is known.

Third, the discussion of the changes in the street prostitution business supplies crucial information on the effects of the law from the perspective of both

practitioners and the police. Throughout its brief history, the amended s. 195.1 has produced much criticism on the likelihood of its negative impact on the street prostitute. This section addresses the available evidence with regard to the major issues raised by the legislation's critics. We attempt to answer the question: how has the business changed as a result of the new police powers which in Toronto have been extensively employed?

Fourth, the chapter presents the information available on the "displacement" of the street sex business to off-street services: has the law contributed to the post-law growth of alternatives to the street, both for prostitutes and for customers?

A. STREET OBSERVATION OF PROSTITUTES

Observations of the number of prostitutes working in three track areas[1] were conducted weekly, or more often, for about nine months between June 1987 and early 1988. The data presented below are estimates of the number of male and female prostitutes working in each prostitution area at one point in time. The observations are not intended to be used as estimates of the total number of prostitutes working in Toronto during the study period. Rather, street observations provide a snapshot of the extent of activity on different days of the week, times of day and seasons of the year. They provide a context to assess the reaction of the police and community to the phenomenon of street soliciting. (See Chapter VII for a discussion of the problems experienced by the citizens of prostitution areas and their reactions to the law.)

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[1]As is discussed below, we did not conduct regular counts on the Yonge Street stroll in downtown Toronto, nor on Lakeshore Boulevard West.

It is important to note that the number of prostitutes that the project team came to recognize constitutes a small fraction of the total observed, particularly in the downtown Track I area frequented by female prostitutes. In the male prostitution track (Track II) and on Queen Street West, the situation was different: more prostitutes were recognized as regular street practitioners.

The street counts raised several methodological difficulties, most of which were resolved during our preliminary observations:

- Initially, it was difficult in some cases to tell who was a prostitute and who was not. For example, it took several observations before we were sure that a handicapped woman in a leg brace on Queen Street was soliciting. Because there is a good deal of socializing among the male hustlers in Track II, a few persons who were counted as prostitutes may have been, in fact, friends of prostitutes.

- Do we count persons who we are reasonably sure are prostitutes, but who are not actually working at the time of observation (i.e., persons who are not soliciting, nor apparently willing to be solicited, such as when they are walking briskly down the street)? We decided to exclude these persons.

- At what point in time do we make the count? There are considerable fluctuations in numbers, even from minute to minute. Prostitutes get picked up and dropped off, use the telephone, go for coffee and walk around. For example, at the first pass, there were 10 women standing at the corner of Jarvis and Gerrard Streets; at the second pass, fewer than five minutes later, there were only five. We decided to count 10. Therefore, the rule became to count the largest number observed during a brief space of time.

- Yonge Street between Dundas, where the Eaton Centre is located, and the next major cross street, Gerrard, is still a prostitution stroll, although the numbers working there are much reduced from the early- to mid-1980s. Because of the very large amount of pedestrian and vehicular traffic in the summer, it was virtually impossible to ascertain who was working without spending 10 to 15 minutes in static observation. For this reason and because initial observations suggested there were rarely more than a few women working on

Yonge, we decided to forgo observations of the Yonge Street action. Later, we learned from police that there are from 5 to 10 women who regularly work the stroll, but there are usually only 1 to 4 on the street at any one time.

Although not because of methodological difficulties, the Lakeshore Boulevard West prostitution track was not regularly observed after July 1987. In June, only 3 of 13 observations found women working there; twice, there was one woman and the third time there were three. In July, four observations found no prostitutes. Because of the location of the track (in the western part of Metropolitan Toronto in the City of Etobicoke, six miles from downtown Toronto), considerable resources were required to undertake street observations. In addition, interviews with Morality officers suggested that, by the summer of 1987, the Lakeshore had markedly declined as a street prostitution area as a result of police enforcement (Project Spinner, described in Chapter III).[2]

We thus recommended to the Department of Justice that the Lakeshore be dropped from regular observation. From time to time during the research, we heard that prostitutes "had returned" to the street. When we checked, no one was observed. This does not mean that *no* women were working the area in the last six months of 1987; as our earlier comments indicated, the "coming and going" among prostitutes is frequent and our random observations may simply have missed them.

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[2]The Lakeshore track was relatively short-lived. This "motel strip" became a street prostitution area in 1985, with activity intensifying in 1986 until the fall when Project Spinner and other enforcement activity (apparently) reduced the number of women working the street to almost nil.

The deliberate omission of the Yonge Street and Lakeshore areas means, of course, that the "street counts" are incomplete. Our counts may also underestimate the number of prostitutes working the central city strolls. On occasion, police informed us that women were now working on another street, one or two blocks from the streets regularly observed. While we would immediately incorporate this street into our observations, this phenomenon of "shifting sands" means that we probably missed some practitioners because of their periodic, but slight changes in location. To be completely certain of the accuracy of the Track I counts, we would have had to cover almost every street and lane in the one mile between Queen Street East in the south and Charles Street in the north, and in the half mile between Yonge Street in the west and Parliament in the east. To do so would require up to three hours per observation because of traffic volume and one-way streets.

In summary, since 1985, there have been three widely separated areas where female street prostitutes work: Track I in the central city core, containing a number of discrete strolls within a 1-mile radius; Queen Street West between Bathurst and Roncesvalles Streets, slightly to the west of the centre of the city; and the since-deceased Lakeshore Boulevard West track in Etobicoke from the Humber River to Park Lawn. In the same area as Track I but separated by Yonge Street is Track II ("Boystown") where male prostitutes, excluding transvestites, work.

1. Prostitute Working Conditions and Demeanour

Most prostitutes stand or sit under the proverbial street lamp or in other well-lit locations, such as under store lights. There are exceptions: some of the residential strolls are badly lit (in fact, the lanes in the Seaton-Ontario stroll are

brighter than the street[3]), but despite the lack of protective illumination, prostitutes work there.

Prostitutes often stand at corners, where there is space at the curb for potential customers to stop their cars. In inclement weather, they stand in doorways and in shelters conveniently located at many transit stops.

When not working, prostitutes congregate in donut shops, hamburger joints and other small restaurants located within one or two blocks of their stroll. Perhaps the best known of these "rest stops" is the Harvey's at Jarvis and Gerrard; at 10 p.m. on most evenings, many of the women prostitutes who work in the area can be found at Harvey's having coffee before going to work. (When asked "where would you go in cases of danger or violence?" one prostitute answered "Harvey's.") As discussed below, there are fewer persons observed to be working some tracks in the fall or winter months. It is unclear whether this reduction is because prostitutes actually stop working the streets, move to other, warmer cities, or simply spend more time in their hangouts.

In several hundred hours of observation and interviews in prostitution areas, members of the project team infrequently observed disruptive or noisy behaviour on the part of prostitutes.[4] Nor did we observe any "pressing or persistent" solicitation. While groups of three or four prostitutes are not uncommon,[5] their

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[3]The lanes have been brightly lit, presumably at the request of residents, to discourage prostitutes from turning tricks in them.

[4]This statement should not be interpreted as meaning that street soliciting is without accompanying problems for residents and others in the area.

[5]This factor may also account for citizen concerns: the small groups of prostitutes are much more noticeable than the lone prostitute.

demeanour does not usually draw undue attention – although the same cannot necessarily be said of their clothes. Sometimes prostitutes appear to be paying little attention to passersby and are more engrossed in their conversations than in attracting customers. When not chatting, they maintain a pose that permits eye contact with passing motorists. Prostitutes working alone sometimes appear restless, especially if there is little traffic, and walk up and down, pausing in order to make their occupation clear only when cars are passing.

Although unobtrusive behaviour was the norm, the following exceptions were observed:

- At 11 p.m. on a Saturday night in August, three prostitutes on the residential Ontario Street were shouting at each other, arguing very loudly as they walked down the street.

- On another warm summer night on Jarvis Street in front of a tourist hotel, a prostitute started to scream *very* loudly for no apparent reason and to no one in particular.

- In the summer, large groups of hustlers and their friends sit at the rear of the YMCA building in Track II. One male prostitute was observed taunting a "Y" staff member, who was trying to get him to move off "Y" property.

- In the winter, groups of hustlers stand huddled in front of a warm air vent adjacent to the main entrance of the "Y." One hustler loudly exclaimed "a two-dollar blow job ...", possibly in an attempt to annoy "Y" users who were leaving the building with their young children precisely at that moment.

- At the corner of Maitland and Church streets, a transvestite-transsexual was observed arguing loudly with a male friend. While the generalization may be unfair, the transvestites as a group appear to be more obtrusive and slightly louder than other prostitutes. However, as one observer commented, "they are no noisier than a group of men coming from the hockey game at the Gardens," which is nearby. On the other hand, the Gardens is not busy nightly after 10 p.m., which this stroll is.

2. Counts of Prostitutes Working in Track I

Street observations for the central city strolls are summarized in Table V.1; for each day of the week and bi-monthly from June 1987 to January 1988, the mean number and the range of prostitutes observed working in the area are presented. The counts are for "peak" periods only, that is, from 9 p.m. on. Although prostitutes do work in the day and early in the evening, in most cases, considerably fewer work these hours than at night.

The fluctuations by day of the week are not large (means of 17 to 25 prostitutes), although Sunday night has the lowest mean and the narrowest range. While it was well known among prostitutes that Thursday and Friday were usually the nights of the sweeps, the average number of prostitutes working those evenings did not decrease.

On average, 17 prostitutes worked in Track I during the June and July observations, and there is a moderate difference by day of the week: an average of 13 to 20 persons were observed, depending on the day. The August and September counts were much higher: the overall mean for the two months was 31, and on some days of the week the means were twice as large as the same days in June and July. This increase in numbers in the late summer is not readily explainable.

After September, the mean counts declined to 20 (October–November) and 21 (December–January). Therefore, although the fall and winter months showed a drop from the August–September high in the average number of prostitutes, their means were similar to those for June and July.

In the downtown strolls, there were consistent trends by the time of day. The means increased from one or two persons in the mornings to a mean of six in the afternoons. From early evening on, the means rise from 11 prostitutes between 7 p.m. and 9 p.m., to 29 persons between 12 a.m. and to 1 a.m. After 1 a.m., the average declines to 17 prostitutes.

To compare with other research sites involved in the evaluation of Bill C-49, the following are the high counts for Track I in the first weeks of June and August 1987:

- On June 3-4 (Wednesday-Thursday morning), there were 27 prostitutes working in Track I at about 12:30 a.m.

- On Saturday, August 8, there were 33 prostitutes between 10 p.m. and 11 p.m. At approximately the same time on Tuesday, August 4, there were almost the same number (32) working in Track I.

Because the downtown strolls have very mixed land use, from "pure" residential to "pure" commercial, the total counts do not adequately address the phenomenon of prostitutes working on residential streets. In Track I, there are four strolls that are primarily residential and where prostitutes sometimes work on the street, as opposed to the corners.[6] Table V.2 shows the peak counts of four or more (and for the slightly larger stroll of Huntley–Isabella–Earl, five or more) prostitutes, including the dates and times of the observations.

- The Huntley–Isabella–Earl stroll is a two block by one block area. Throughout our observations, the streets were active. Of about 50 observations, five to eight prostitutes were observed on 21 occasions.

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[6]With the exception of Maitland Street, these strolls are worked in the day as well as in the evenings, a factor that undoubtedly adds to resident inconvenience and annoyance. Also, with the exception of Maitland, most resident complaints from the downtown area come from residents of these streets.

- Seaton and Ontario is a one by one block area in Cabbagetown. On eight occasions, four to eight prostitutes were observed. Resident-organized "hooker patrols" and the change in street directions so both streets run the same direction (to prevent customers from circling in their cars) may have contributed to the finding that there were no "peak" counts observed after October 1987.

- Pembroke and George streets had 4 to 11 working prostitutes in its one by one block area on 12 occasions during study observation.

- Maitland Street, frequented by both transvestite and female prostitutes, is a very short stroll located between Church and Jarvis streets. Four to 10 prostitutes were counted on 18 occasions.

3. Street Counts of Male Prostitutes in Track II

The male hustler area is a small one; one lowrise apartment building, provincial government buildings, a major hospital and the YMCA were the other major occupants at the time of the research. Most of this three to four block area is not a busy one; particularly late at night, most of the street traffic is made up of potential customers.

Friday is a slow night in Track II, with a mean of 7 hustlers, and Saturday is the busiest, on average, with 15 hustlers (Table V.3). The June-July counts[7] did not differ from those for August–September, with means of 16 and 17, respectively, but there was a decrease in the fall (to 11 in October–November) and winter (6 in December–January). Unlike the adjacent Track I, therefore, there was a seasonal pattern – as winter advanced, the numbers observed on the street decreased.

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[7]Note that the mean count for Track II in June–July was similar to that of the much larger area of Track I in the same months.

TABLE V.1

COUNTS OF STREET PROSTITUTES BY DAY OF THE WEEK; MONTH AND DAY OF THE WEEK; AND TIME OF DAY: TRACK I

	Mean number of prostitutes	Range	Number of observations
Day of the Week			
Monday, Tuesday	25	15-33	7
Wednesday	18	9-30	10
Thursday	24	13-37	6
Friday	23	13-41	5
Saturday	21	7-44	15
Sunday	17	11-24	4
June–July	17	9-27	18
Monday, Tuesday	20	-	1
Wednesday	18	13-27	5
Thursday	14	13-14	2
Friday	15	-	1
Saturday	17	9-24	8
Sunday	15	-	1
August–September	31	17-44	10
Monday, Tuesday	31	29-33	3
Wednesday	30	-	1
Thursday	32	-	1
Friday	32	22-41	2
Saturday	39	33-44	2
Sunday	17	-	1
October–November	20	7-34	7
Monday, Tuesday	15	-	1
Wednesday	25	-	1
Thursday	34	-	1
Friday	-	-	0
Saturday	17	7-27	2
Sunday	18	11-24	2

TABLE V.1 (cont'd.)

	Mean number of prostitutes	Range	Number of observations
December–January	21	16-37	12
Monday, Tuesday	-	-	0
Wednesday	23	19-27	2
Thursday	27	16-37	2
Friday	21	16-25	2
Saturday	25	20-29	2
Time of Day			
Morning	1.3	0-3	3
Afternoon (before 7 p.m.)	6	3-10	7
7 p.m. to before 9 p.m.	11	3-23	4
9 p.m. to before 10 p.m.	17	13-23	4
10 p.m. to before 11 p.m.	20	7-34	9
11 p.m. to before midnight	22	9-37	23
Midnight to before 1 a.m.	28	17-44	6
1 a.m. to 2:30 a.m.	17	9-25	5

Note: Other than the "time of day," all counts are from 9 p.m. on (i.e., peak times only).

TABLE V.2

PEAK COUNTS OF PROSTITUTES ON RESIDENTIAL STREETS IN TRACK I

	Number	Date	Time
Huntley–Isabella–Earl, between Jarvis and Sherbourne streets	5	Wed. June 3	9:00 p.m.
	7	Wed. June 3	11:30 p.m.
	5	Fri. June 5	10:30 p.m.
(Five or more prostitutes)	5	Wed. June 24	9:00 p.m.
	5	Wed. July 8	11:00 p.m.
	6	Mon. Aug. 19	10:30 p.m.
	7	Fri. Aug. 21	10:15 p.m.
	6	Mon. Aug. 24	10:30 p.m.
	7	Wed. Aug. 26	11:00 p.m.
	6	Sat. Sept. 5	12:30 a.m.
	6	Wed. Sept. 19	11:00 p.m.
	5	Thurs. Sept. 20	10:00 p.m.
	7	Sat. Nov. 14	11:30 p.m.
	5	Sat. Nov. 21	10:30 p.m.
	8	Thurs. Dec. 10	10:30 p.m.
	5	Tues. Dec. 22	10:30 p.m.
	5	Tues. Jan. 12	Midnight
	6	Sat. Jan. 16	11:00 p.m.
	6	Wed. Jan. 20	11:00 p.m.
	6	Sat. Jan. 23	1:30 p.m.
	6	Thurs. Feb. 18	10:30 p.m.
Seaton and Ontario between Carlton and Gerrard streets	4	Fri. July 10	1:00 p.m.
	4	Sat. Aug. 8	10:30 p.m.
(Four or more prostitutes)	7	Mon. Aug. 17	11:00 p.m.
	7	Fri. Aug. 21	11:00 p.m.
	5	Wed. Aug. 26	10:30 p.m.
	5	Sat. Sept. 5	2:30 a.m.
	8	Wed. Sept. 9	11:00 p.m.
	6	Fri. Oct. 16	8:00 p.m.

TABLE V.2 (cont'd.)

	Number	Date	Time
Pembroke and George between Gerrard and Dundas St. East	6	Sat. June 6	10:00 p.m.
	4	Sat. July 18	10:00 p.m.
(Four or more prostitutes)	8	Mon. Aug. 24	11:00 p.m.
	4	Mon. Sept. 14	3:00 p.m.
	4	Mon. Oct. 12	10:00 p.m.
	11	Fri. Oct. 16	8:00 p.m.
	7	Thurs. Oct. 22	6:00 p.m.
	4	Thurs. Nov. 12	10:00 p.m.
	4	Thurs. Jan. 14	11:00 p.m.
	5	Sat. Jan. 23	11:00 p.m.
	4	Wed. Jan. 27	8:30 p.m.
	5	Wed. Feb. 17	11:00 p.m.
Maitland Street between Church and Jarvis streets	4	Thurs. June 4	11:00 p.m.
	4	Sat. June 6	1:00 a.m.
	4	Sat. June 20	12:30 a.m.
(Four or more prostitutes)	4	Wed. July 8	11:00 p.m.
	4	Sat. July 25	1:00 a.m.
	9	Tues. Aug. 4	11:00 p.m.
	7	Sat. Aug. 8	11:00 p.m.
	4	Mon. Aug. 17	11:15 p.m.
	7	Mon. Aug. 24	11:30 p.m.
	6	Sat. Sept. 5	12:30 a.m.
	6	Wed. Sept. 9	11:00 p.m.
	4	Sun. Sept. 20	10:00 p.m.
	5	Fri. Sept. 25	Midnight
	10	Sun. Oct. 18	11:00 p.m.
	4	Fri. Dec. 4	1:30 a.m.
	4	Wed. Dec. 16	11:00 p.m.
	5	Tues. Dec. 22	10:30 p.m.
	5	Sat. Jan. 16	11:00 p.m.

Afternoons and early evenings (before 9 p.m.) saw a mean of 8 to 9 hustlers. From 10 p.m. on, the mean gradually climbs from 10 to 17 prostitutes after 1 a.m.

The peak count for the first week in June was on Thursday morning (June 3-4) at 1:30 a.m., when there were 19 male prostitutes on the street. The peak count for the first week in August was on Saturday, August 8 at about 11 p.m. when there were 23 male prostitutes.

The largest number of males was observed in July 1987; at about 1 a.m., on a Sunday morning, there were 27 male prostitutes working in Track II.

4. Street Counts of Prostitutes on Queen Street West

As Table V.4 shows, Wednesdays and Thursdays appear to be peak nights on the Queen Street track: an average of 14 persons were observed these evenings, versus 7 to 9 persons on other nights of the week.

There was a slight seasonal variation in the counts. The summer months saw a mean of 14 or 15 prostitutes on the several miles of Queen Street West. The means dropped to 12 in October–November and to 8, in December–January. Several police respondents suggested that the decrease was the consequence of police enforcement, but it does seem possible that the weather may have in part accounted for the reduction in numbers.

TABLE V.3

COUNTS OF MALE STREET PROSTITUTES BY DAY OF THE WEEK; MONTH AND DAY OF THE WEEK; AND TIME OF DAY: TRACK II

	Mean number of prostitutes	Range	Number of observations
Day of the week			
Monday, Tuesday	14	4-23	5
Wednesday	13	3-24	10
Thursday	9	3-19	3
Friday	7	1-11	5
Saturday	15	5-27	15
Sunday	12	8-19	3
June–July	16	10-27	14
Monday, Tuesday	-	-	0
Wednesday	14	12-19	5
Thursday	19	-	1
Friday	9	-	1
Saturday	18	10-27	7
Sunday	-	-	0
August–September	17	8-24	10
Monday, Tuesday	20	17-23	3
Wednesday	20	16-24	2
Thursday	-	-	0
Friday	11	-	1
Saturday	18	12-23	3
Sunday	8	-	1

TABLE V.3 (cont'd.)

	Mean number of prostitutes	Range	Number of observations
October–November	11	6-19	6
Monday, Tuesday	-	-	0
Wednesday	8	-	1
Thursday	6	-	1
Friday	-	-	0
Saturday	12	8-15	2
Sunday	15	10-19	2
December–January	6	1-13	11
Monday, Tuesday	6	4-8	2
Wednesday	4	3-5	2
Thursday	3	-	1
Friday	5	1-9	3
Saturday	8	5-13	3
Sunday	-	-	0
Time of Day			
Morning	0	-	1
Afternoon (before 7 p.m.)	9	0-17	6
7 p.m. to before 9 p.m.	8	4-12	7
9 p.m. to before 10 p.m.	14	10-19	3
10 p.m. to before 11 p.m.	10	3-23	12
11 p.m. to before midnight	13	1-24	14
Midnight to before 1 a.m.	15	4-27	7
1 a.m. to 2:30 a.m.	17	9-23	5

Note: Other than the "time of day," all counts are from 9 p.m. on (i.e., peak times only).

While a few women work on Queen during the afternoons (a mean of three prostitutes), there were no other major diurnal patterns. Between 10 p.m. and 2 a.m., there were an average of 10 to 15 women working the street.

In the first week of June, the largest number of prostitutes working was 20, observed at 1:30 a.m. on Thursday morning, June 4. In the first week of August, there was a similar number (22) at midnight on Wednesday, August 8.

The largest number of prostitutes observed to be working at any one time on Queen Street West was 22 persons.

5. Summary

Figures V.1 and V.2 show the means and the highest counts of street prostitutes for the three areas over time, with the counts confined to the evening hours when the strolls are the busiest.

With the exception of June and July 1987, Track I has the highest means and peak counts of each of the tracks; it is clear that the counts for the downtown female prostitution area are approximately equal to the other two tracks combined. In June and July, however, all three areas have similar numbers of working prostitutes. Figure V.1 illustrates the finding that there is a decrease in average numbers working the male prostitution area and on Queen Street West in the winter (i.e., December 1987 and January 1988). Although there is also a reduction in the peak counts for these areas (Figure V.2), it is not as noticeable a drop – our observations indicated that on warmer nights in the winter, above-average numbers of prostitutes could be seen on the streets of Track II and Queen Street West.

B. PROFILES OF PERSONS ENGAGED IN PROSTITUTION

This section describes the social characteristics and prior record of prostitutes, customers and pimps.

The case files of the Metropolitan Toronto Police are the major data source for the information on prostitutes, customers and pimps. As described in Chapter IV, this research sampled files of completed cases of "communication for the purposes of prostitution" in the Morality Bureau and three police divisions. In addition, *all* cases involving a pimping offence (s. 195 of the *Criminal Code*) were obtained from these files. The unit of analysis for both communicating and pimping charges is the "charge incident" where court proceedings had ended, or where the proceedings were concluded because the accused had not attended court as required.

TABLE V.4

COUNTS OF STREET PROSTITUTES BY DAY OF THE WEEK; MONTH AND DAY OF THE WEEK; AND TIME OF DAY: QUEEN STREET WEST

	Mean number of prostitutes	Range	Number of observations
Day of the week			
Monday, Tuesday	9	6-11	2
Wednesday	14	3-22	11
Thursday	14	2-22	13
Friday	9	3-14	6
Saturday	7	4-9	4
June–July	15	4-22	11
Monday, Tuesday	-	-	0
Wednesday	16	8-20	4
Thursday	18	16-22	4
Friday	9	7-11	2
Saturday	4	-	1
August–September	14	2-22	9
Monday, Tuesday	6	-	1
Wednesday	20	18-22	2
Thursday	13	2-20	5
Friday	12	-	1
Saturday	-	-	0
October–November	12	8-21	8
Monday, Tuesday	11	-	1
Wednesday	15	8-21	2
Thursday	11	9-13	3
Friday	14	-	1
Saturday	9	-	1

TABLE V.4 (cont'd.)

	Mean number of prostitutes	Range	Number of observations
December–January	8	3-16	8
Monday, Tuesday	-	-	0
Wednesday	6	3-8	3
Thursday	16	-	1
Friday	6	3-9	2
Saturday	8	7-8	2
Time of Day			
Afternoon (before 7 p.m.)	3	1-4	5
7 p.m. to before 9 p.m.	10	-	1
9 p.m. to before 10 p.m.	-	-	0
10 p.m. to before 11 p.m.	15	8-22	8
11 p.m. to before midnight	13	2-18	10
Midnight to before 1 a.m.	11	3-20	16
1 a.m. to 2:30 a.m.	12	3-20	2

Note: Other than the "time of day," all counts are from 9 p.m. on (i.e., peak times only).

FIGURE V.1

MEAN COUNTS OF STREET PROSTITUTES ON THREE TRACKS, JUNE 1987 TO JANUARY 1988

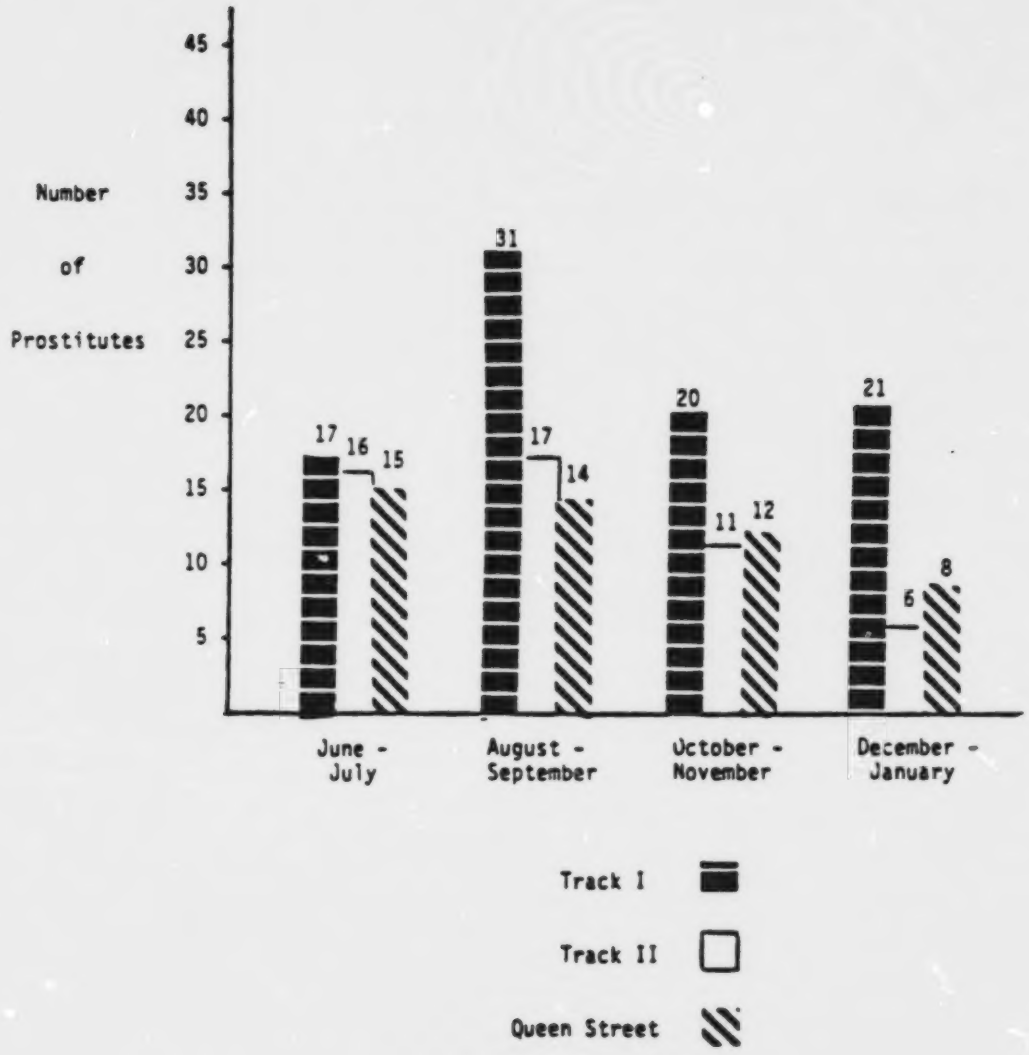
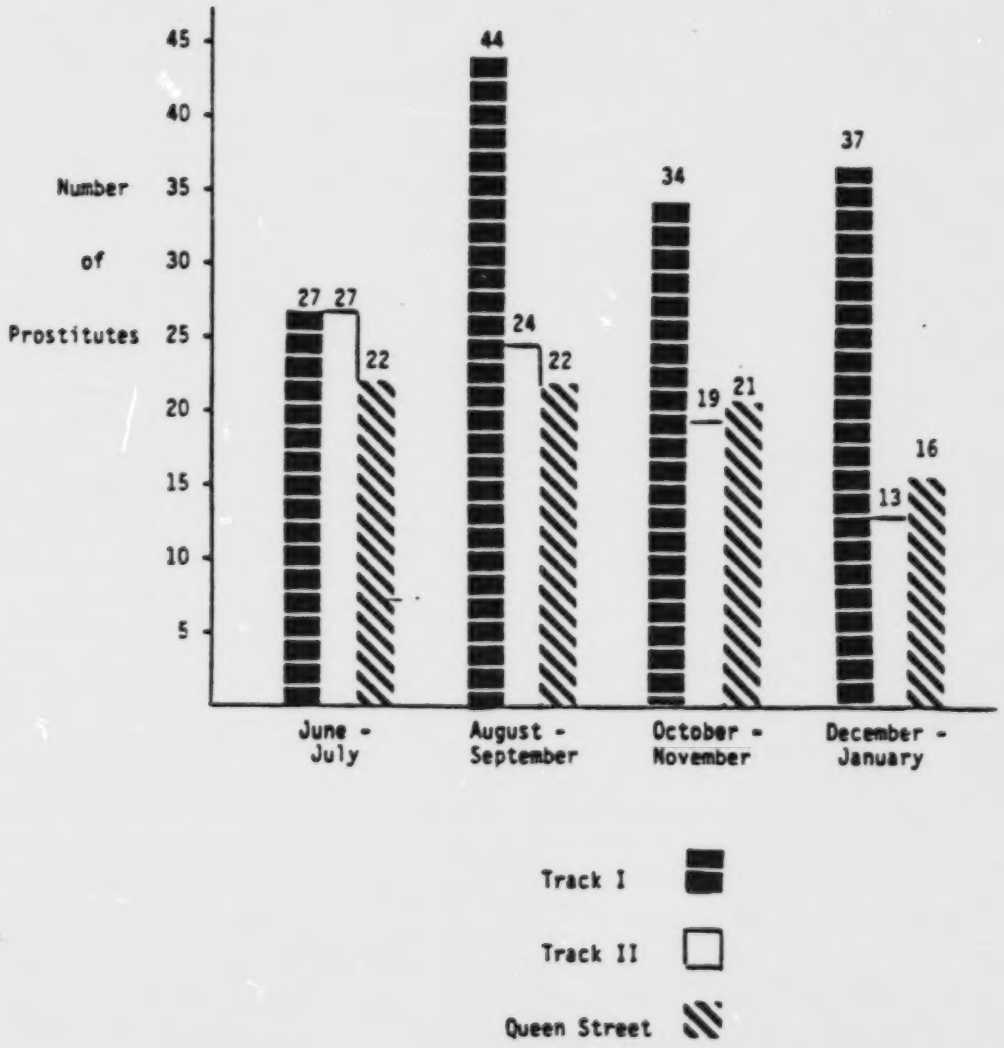


FIGURE V.2

PEAK COUNTS OF STREET PROSTITUTES ON THREE TRACKS, JUNE 1987 TO JANUARY 1988



The second data source for the information on street prostitutes is interviews with prostitutes conducted by the project team between July and November 1987 in Track I, Track II (male prostitutes) and Queen Street West. The interview sample is made up of 111 prostitutes: 94 women, 14 men and 3 transvestites.[8] The characteristics of this group are compared with the characteristics of prostitutes interviewed in 1984 for the Fraser Committee (Fleischman 1984).

The research design for this project initially planned for interviews with customers and pimps. Regrettably, the Toronto research team failed to devise a satisfactory and ethical method of obtaining a representative sample of these two actor categories and no interviews were undertaken. One could, however, argue that the characteristics of customers who have been charged probably approximate the characteristics of the customers of street prostitutes in general: the sweeps and routine enforcement efforts do not target individuals, and in Toronto, little or no police discretion is used in deciding whether a customer is to be charged (all are). On the other hand, it is possible that customers who are attracted to and proposition policewomen differ in some ways from the majority of johns. Of course, customers who are "regulars" of specific prostitutes would probably avoid being charged by police decoys.

It is much less likely that the sample of persons charged with pimping offences are representative of the total population of pimps in the city. The pimps who are charged by police will not necessarily have the same characteristics as those who remain free of legal entanglements.

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[8]See Chapter II for details on how these interviews were obtained and conducted.

1. Street Prostitutes

We first present the sociodemographic characteristics of prostitutes charged with "communicating" between January 1986 and August 1987. This is followed by a description of their prior records and other legal characteristics. The section concludes with a comparison of the characteristics of prostitutes interviewed in 1984 (Fleischman 1984) and in 1987.

Demographic and Social Characteristics of Charged Prostitutes

Eighty-eight per cent of the prostitutes charged by the Metropolitan Toronto Police were women, 5 per cent were male prostitutes who work in Track II, and about 7 per cent were transvestites/transsexuals. More than one-half of all males charged were transvestites/transsexuals. As the observational data in the last section indicated, there were substantial numbers of male prostitutes working during the study period in the Track II area. The high proportion of charged transvestites suggests that male prostitutes who do not dress as women are under-represented in the charge statistics. Interviews with police reveal that the Track II area has not been a focus of much enforcement attention, probably in part because of a reluctance of officers to enforce the communicating law in that prostitution area. The same reluctance does not appear to apply to transvestites, all of whom work outside Track II.

The age distribution of charged prostitutes shows that the majority were young, although relatively few were young offenders (i.e., under 18 years old). Less than 1 per cent were under the age of 16 years. As discussed elsewhere in this report, the practice of the Metropolitan Toronto Police is to refer juvenile prostitutes (those less than 16 years) to social agencies such as Moberly House unless they have prior charges. (See Chapter VI.) In all, 13 per cent of the communicating charges laid against prostitutes involved young persons less than

18 years old.

A substantial majority of prostitutes (63 per cent) were in the narrow range between 18 and 24 years, and only 3 per cent were 35 or more years of age. (The oldest was 44 years of age.) There was no large difference in the age distributions of male and female prostitutes.

Most prostitutes were Canadian-born (83 per cent) and Caucasian (79 per cent).

More than 90 per cent of prostitutes were recorded in police files as single. This proportion is almost certainly an unreliable one, at least for the women. Many female prostitutes are reluctant to acknowledge their married or common-law status to the police for fear that their spouses will be prosecuted for pimping.

According to police files, a higher proportion of male prostitutes than female prostitutes were employed in occupations other than prostitution (27 per cent versus 6 per cent). Subjective data from interviews suggest that a number of male prostitutes (excluding transvestites) were "weekenders," holding down full-time employment and only working on the street part-time.

Prior Record and Other Legal Characteristics of Charged Prostitutes

We operationalized prior record in two ways for this research:

- the existence and the type of prior *convictions*: no past convictions (prior to this charge); prior convictions but not for communicating; prior convictions for communicating; and prior convictions, but the types were not known to the police.
- the existence of prior *charges* of communicating.

Table V.5 shows the type of prior convictions by the gender of the prostitute. Most likely to have a past conviction of some type were transvestites and transsexuals (78 per cent), followed by other male prostitutes (65 per cent) and female prostitutes (59 per cent). Only 3 per cent of the male prostitutes (excluding transvestites) had a past conviction for communicating, compared with about one-quarter (26 per cent) of transvestites and almost one-fifth (18 per cent) of female prostitutes. Eleven charged prostitutes (40 per cent) had no pre-arrest conviction of any kind, 31 per cent had a past conviction for charges other than communicating, 18 per cent had an earlier communicating conviction, and 12 per cent had prior convictions, but the type was not known.

TABLE V.5

TYPE OF PRIOR CONVICTION, BY GENDER: PROSTITUTES

	MALES		FEMALES	TOTAL
	Transvestites	Other		
	(percentages)			
No prior convictions	22.2	35.4	41.0	39.5
Prior conviction(s), not for communicating	34.0	47.8	30.0	31.1
Prior communicating conviction(s)	26.4	2.7	17.9	17.6
Prior conviction(s), type not known	17.4	14.2	11.2	11.8
Total per cent	100.0	100.1	100.1	100.0
Total population estimate	144	113	1,933	2,190

Chi-square = 16.618 df = 6 $p < .02$

The existence of prior convictions was also related to the prostitute's age: the older the prostitute the more likely he or she had a past conviction of some kind, and for communicating in particular. For example, 8 per cent of those 17 years and younger, 17 per cent of the 18 to 24 year olds, 24 per cent of the 25 to 34 year olds, and 38 per cent of those 35 years or more had been earlier convicted of a s. 195.1 charge. Because it is unlikely that police practices account for this difference in prior record by age, we can speculate that:

- older prostitutes may work more often and thus be more at risk from being charged;
- older prostitutes may be less careful in screening their customers; or
- older prostitutes may be less mobile (less likely to move to another city "when the heat is on" in Toronto), because of family responsibilities or for other reasons.

We also examined the proportion of prostitutes with prior *charges* of communicating: of the total sample, 69 per cent of the prostitutes had no earlier charges of this type, 17 per cent had one charge, 10 per cent had two charges, and 4 per cent had three to eight past charges of communicating. Again, there were differences by gender: transvestites and female prostitutes were most likely to have been charged with communicating (32 per cent) and male prostitutes were least likely (4 per cent).

However, the data on prior communicating charges are misleading unless the factor of *time* is taken into consideration. Table V.6 shows the proportion of all prostitutes with a pre-arrest charge of communicating for six quarters, from January 1986 to June 1987. Only 4 per cent of the prostitutes charged in January to March 1986 had a prior communicating charge, but by the end of the year the

proportion had risen to two-fifths. By April to June 1987 almost one-half (49 per cent) of the prostitutes charged had one or more prior communicating charge(s). Because it is difficult for police to obtain records of summary conviction offences from other cities, it is probable that the very large majority of those with prior charges had been charged in Toronto. These data reflect the extent of police enforcement of Bill C-49. Whether they also reflect the issue of (lack of) deterrence of Bill C-49 is less certain, but the police would claim that they do:

> The statistics with regard to the number of new offenders and repeat offenders clearly indicate the threat of being charged, convicted and sentenced has little deterrent value. The number of repeat offenders continues to rise and there is no reason to believe that the number of female offenders will decrease either because of fewer participants or because of a decrease in police enforcement.
>
> Letter to the Department of Justice by the Metropolitan Toronto Police, 24 August 1987

The current legal involvement of the sample was as follows: about three-fifths had none; approximately one-fifth were either currently on bail from the court or had other pending charges; and 16 per cent were on probation at the time of their charges.

One-third of prostitutes had a history of failure to attend court or a failure to comply with conditions of a bail order. About one-tenth had no fixed address at the time of their charge.

TABLE V.6

CHANGES BY QUARTER IN THE PROPORTION OF PROSTITUTES WITH PAST CHARGES OF COMMUNICATING

	1986				1987	
	Jan.-Mar.	Apr.-June	July-Sept.	Oct.-Dec.	Jan.-Mar.	April-June
	(percentages)					
No prior communicating charge	96.3	82.9	71.6	60.2	61.2	50.9
One or more prior communicating charges	3.7	17.1	28.4	39.8	38.8	49.1
Total per cent	100.0	100.0	100.0	100.0	100.0	100.0
Total population estimate	268	211	250	314	407	328

The Interview Samples: 1984 and 1987

Have the characteristics of the working prostitute changed since the law was implemented? In 1984 Fleischman interviewed a number of street prostitutes for his study, *A Report on Prostitution in Ontario.* There were no large differences between the 1984 and 1987 interview samples on the following dimensions: age, years of education, whether the prostitute had had jobs other than prostitution, whether the prostitute had ever married or had children, living arrangements, the number of days worked per week and prior record (operationalized as prior arrests). (See the supporting tables for these findings in Appendix B.)

The similarity between the 1984 and 1987 interview samples is quite remarkable and leads us to conclude that the "type" of street prostitute working post-C-49 is very similar to the "type" that worked prior to this legislation.

2. Consumers of Street Sex

Toronto police data on men charged with communication for the purposes of obtaining a prostitute provide more information than has previously been available on the characteristics of the john. This section describes the social and demographic characteristics and prior record of customers of street prostitutes.

Demographic, Social and Legal Characteristics of Charged Customers

The large majority of customers are under 35: 17 per cent were 24 years or younger, 46 per cent were between 25 and 34 years, 21 per cent were 34 to 44, and only 15 per cent were 45 years or older. The age of the charged johns ranged from 16 to 68 years. Customers were older than prostitutes; about three-quarters of the prostitutes were 24 years of age or younger.

Sixty per cent of the customers were born outside of Canada, with 31 per cent born in Europe (primarily southern Europe) and 16 per cent in Asia, including India. (Only 17 per cent of the prostitutes were born outside this country.) The place of birth of customers is a reflection of both the multicultural character of the Metropolitan Toronto area and (possibly) sociocultural differences in proscribed sexual behaviour – some cultures have a more tolerant view of the purchase of sexual services than others. Moreover, it is also possible that many of those born elsewhere are relatively recent immigrants, not yet integrated into the community.

Slightly more than one-fifth (23 per cent) of customers were non-white (black, Asian, etc.).

Married men accounted for more than two-fifths (43 per cent) of all customers; 57 per cent of customer charges involved men who were single, separated, divorced or widowed.

Most customers were employed (86 per cent). Almost one-third of the employed group were in labouring or similar occupations (i.e., unskilled, blue collar jobs), and only 13 per cent had employment that could be described as being at the upper end of the socioeconomic scale.[9] These findings support the hypothesis that many customers lack financial resources to utilize off-street services such as escort agencies (although proper testing of this hypothesis would require data on customers of off-street services, which were not available).

The customer's occupational status was associated with his age and the track where he was charged. The older the customer, the more likely he had a higher status occupation. Also, the downtown Track I had a higher proportion of high-status customers than did Queen Street (20 per cent and 5 per cent, respectively). Contrary to expectations,[10] there was no change between 1986 and 1987 in the proportion of high-status customers.

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[9]Labouring occupations are defined as those with a value of less than 30 on the "socioeconomic index for occupations in Canada;" upper non-manual ("high-status") occupations are operationalized as scores of 56 or more. (See Blishen and McRoberts 1976.)

[10]We hypothesized that persons of middle to high status would decrease over time as the publicity surrounding the law increased.

Prior Record and Other Legal Characteristics of Charged Customers

Not unexpectedly, customers were much less likely to have had a prior conviction than prostitutes. Only 16 per cent had an earlier conviction of some kind. Most of this group had been convicted on charges other than communicating, but 2 per cent had a prior communication conviction. Slightly less than 3 per cent of customers had a prior *charge* of communicating.

Only 2 per cent of customers had a history of failing to attend court. The same proportion had pending charges or were currently on probation – 98 per cent of customers had no current involvement with the criminal justice system.

3. Pimps

About 65 cases of "pimping" – defined as charges under s. 195 of the *Criminal Code* or attempted pimping (e.g., attempt to procure, attempt to live off the avails) – were found in the files of the Metropolitan Toronto Police (completed cases only). Of this group, 97 per cent of the cases involved "living off the avails of prostitution," but most accused (69 per cent) were also charged with other pimping offences such as "exercising control" and "procuring."

More than 90 per cent of those accused of pimping were male. A very small proportion of the charges involved young offenders (3 per cent); the majority of the accused (57 per cent) were from 18 to 24 years; and two-fifths were 25 years or older. The youngest person charged was 16 years and the oldest was 49 years of age.

The majority of persons charged with pimping were born in Canada; of the 43 per cent who were born elsewhere, the most common place of birth was the West Indies (one-fifth were born there). The majority of the pimps were

Caucasian (57 per cent). According to police files, two-thirds were single. One-quarter were employed at the time of their charges, and one-half of this small group were employed in unskilled occupations such as labourer and bouncer.

Most persons charged with pimping had a history of convictions for *Criminal Code* offences other than prostitution (82 per cent) and one-half had four or more charges of this nature. Despite quite lengthy histories of charges and convictions, only five persons had prior pimp-related charges and only two had been convicted of them. Thus, although many had a long career in criminal activity, most were not "career pimps."

Almost one-half of the pimps had no fixed address and a similar proportion had a history of failing to comply with a court order or a failure to attend court. Just more than one-half had some type of current legal involvement (e.g., pending charges or a current probation order).

Of the cases where the court outcome was in the case files, 54 per cent of pimps were convicted. In 17 per cent of the cases, the accused was found not guilty or the charges were dismissed after a preliminary hearing; the rest had their charges withdrawn and one person was deported. Twenty-six of the 29 pimps who were found guilty received a custodial sentence. One-half of those who were imprisoned received more than six months, and just over one-quarter received more than one year of incarceration.

C. CHANGES IN THE STREET TRADE

The information in this section was obtained largely from two sources: interviews with street prostitutes, especially those with both pre- and post-C-49

experience, and with Metropolitan Toronto Police supervisory and line officers responsible for the enforcement of s. 195.1. Additional sources were a mail survey of a selected sample of citizens working or living in prostitution areas, and interviews with social agency personnel involved in direct service to prostitutes.[11] The topics investigated in this section are:

- Changes in the number of prostitutes working on the Toronto streets since Bill C-49. In order to assess the extent of change, we first present the evidence related to factors such as displacement to indoor venues, geographical displacement (both intra- and inter-city), and the number of neophytes in the business.

- Changes in the number of customers since the law.

- Changes in the degree of danger faced by street prostitutes and in the number and role of pimps.

- Changes in the police-prostitute relationship.

- Other changes in the street trade.

1. Changes in the Number of Street Prostitutes

The main objective of Bill C-49 is to decrease soliciting on the street. In order for that objective to be attained, one or more of the following "intervening mechanisms" would have to occur, that is, for the number of street prostitutes to decrease, one or more of these conditions would have to be met:

- There could be fewer prostitutes on the streets because of movement to off-street locations, such as hotels, bars or escort agencies.

- Some prostitutes could have retired from the business altogether. Although it has been estimated that the career of most street prostitutes is relatively brief (fewer than two years), the turnover could have been accelerated by the new legislation and/or police

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[11]For example, citizen opinions on the change in numbers of street prostitutes in their area and social agency opinions on the number of young persons working the streets.

enforcement.

- The number of neophytes entering the business could have decreased, because of knowledge that the occupation is now subject to prosecution, or for other reasons. For example, the booming economic situation in Toronto has meant that recently, legitimate employment is plentiful.

- Similar numbers of prostitutes could be working, but those who work could be doing so less than formerly, or at times of the day least likely to be observed by citizens engaged in straight occupations.

- There may be fewer women in the traditional tracks because prostitutes have moved their activities to other parts of the city. By the development of new "mini-strolls," the impression is given that street prostitution has decreased.

- Numbers could have decreased because of an increase in the positive net migration of street prostitutes to other communities.

Each of these possibilities is investigated in this section. This discussion is followed by respondents' views on the extent to which the number of street prostitutes has changed in Toronto.

Movement to "Indoor" Locations[12]

Three-quarters of street prostitutes with pre-C-49 experience said they had *not* changed the aspect of the business in which they worked. Only 5 per cent of those interviewed reported changing their working venue because of the communicating law. Prostitutes were also asked whether they had noticed a general movement from the street to off-street locations. Almost one-half said they had friends or acquaintances who had moved to hotels or escort agencies. The women working in the central city Track I, which is the more prestigious

[12]See also section D of this chapter for further discussion of displacement and the off-street sex business.

area for prostitution, were especially likely to have had acquaintances try alternative venues.

Police were almost equally divided between those who believed there had been displacement "indoors" and those who felt that many street prostitutes would find it difficult to work in settings such as escort agencies and hotels. Several noted that "hotel girls," escorts and "street girls" are essentially different populations, with minimal crossover.

Police who enforce s. 195.1 work in squads responsible for the enforcement of liquor legislation (e.g., ensuring after-hours "booze cans" and licensed premises are obeying the licensing laws). Police indicated that if street prostitutes were carrying on business in bars and other licensed premises in any number, they would be aware of it.

In the view of the large majority of social agency personnel, there has been a reduction in the number of female prostitutes working the streets since the law, and particularly when 1987 was compared with 1986.[13] They felt that this was a consequence of the sex business moving "underground" to new areas of the city, bawdy houses and unknown locations.

Early Retirement

About one-half of the prostitutes interviewed knew prostitutes who had retired from the business ("squared up"). Many cited factors unrelated to the legislation as prompting the retirement, such as returning to school. Although most police did not believe that Bill C-49 has deterred street prostitutes, several

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[13]Very few respondents from social agencies had pre-law experience on the street.

officers suggested that a small proportion may have been deterred by their involvement with the criminal justice system – the aggravation resulting from constant police contact, involvement with the courts or with the correctional system, may have been factors in their retirement.

The Number of Neophytes Entering Street Prostitution

There is inconclusive evidence with regard to changes in the number of persons entering the business. Several police officers suggested that the communicating law may have prevented young persons from starting to work as prostitutes; some also noted that the crackdown on pimps in the past few years may have reduced the number of young women starting a street career. On the other hand, many police stated that new faces were constantly being seen on the streets. Whether these prostitutes were recent entrants to the trade or from other communities is not known.

In 1984 Fleischman found that 7 per cent of street prostitutes interviewed had been in the business for less than one year. In 1987, 19 per cent of the female prostitutes interviewed for this research had worked for 11 months or fewer. These figures suggest that there was not an outstanding difference in the proportion of relative neophytes to the street prostitution business and do not support the hypothesis that newcomers have been deterred by the communicating law.[14]

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[14]About one-half of prostitutes interviewed believed that there were more young people working than there were pre-law. Unfortunately, we did not specifically ask if they had noticed changes in the number of *newcomers* to the business since Bill C-49 came into effect.

Changes in the Frequency of Working and in the Hours of Working

A decrease in the average number of days worked weekly, and a change in the time of day worked (e.g., from the day or evening to early morning hours), would tend to create the impression that street prostitution had declined. The evidence suggests that neither has occurred to any degree.

One-half of prostitutes said they worked the same number of days per week as they had prior to the communicating legislation, one-quarter said they worked fewer, and one-quarter said they worked more. About one-half of the prostitutes who had changed how often they worked said they had changed specifically because of the legislation. However, only 14 per cent worked *less* because of the law, indicating that there has been no large reduction in the frequency of working as a result of C-49.

About two-fifths of the prostitutes reported that they had changed their hours of work because of police enforcement practices and/or a court-ordered curfew. The majority had switched their hours of work to the daytime. More prostitutes working the day shift would probably increase, not decrease, citizens' concerns about the number of prostitutes working their neighbourhoods.

While remarking that there were always "day girls," police were aware that prostitutes worked days because of court-ordered curfews and to avoid police. In one division, the shifts of officers responsible for enforcement of Bill C-49 were changed to accommodate the day workers.

Several police officers commented that street prostitutes had started to work in the early morning in order to avoid police, but prostitute interviews rarely

confirmed this observation.[15] However, it would seem unlikely that the demand for sexual services in Toronto would be large enough after 2 a.m. or 3 a.m. to warrant a large number of prostitutes working in the early morning hours.

In summary, interviews suggest that three-quarters of the prostitute sample worked the same number of days per week, or more, than they had prior to the passage of C-49. The evidence also suggests that the response of the street trade to the law has been to shift hours of work from the evenings to days, thus increasing their visibility to many citizens.

Intra-city Geographical Displacement

Since the passage of the communicating law, there have been two shifts in prostitution areas: first, the Lakeshore has been virtually eliminated as a street prostitution area; second, there has been a shift eastward in the downtown Track I. The elimination of the Lakeshore can probably be attributed to both vigorous police enforcement and to the tendency for prostitutes to move back to traditional prostitution areas when under pressure.

The shift eastward in the central city Track I is less easily accounted for. No police respondent could offer a reason why some streets that were heavily worked before Bill C-49, such as Church Street north of Carlton, and Yonge Street between Dundas and Gerrard, were much less populated in 1987 than two years earlier. One former street prostitute, however, attributed the move eastward to police enforcement of the law. She believed that while the residential streets east of Jarvis Street (e.g., Seaton, Ontario, Pembroke) always had women working

[15]However, no prostitute interviews were conducted after about 1:30 a.m.

on or near them, the numbers grew after the law was enacted.[16] This view corresponds to those of the residents of these strolls, many of whom believe the numbers have grown since the law.

About one-tenth of prostitutes reported that they had changed tracks because of the law – police "heat" and/or area restrictions imposed as a condition of bail or probation. Also, several prostitutes commented that they moved from street to street within the same track because of boredom, area restrictions, customer demand, police pressure and the location of their friends.

Critics of Bill C-49 who predicted intra-city displacement were most concerned that street prostitutes would be forced out of the known and familiar red light districts to unfamiliar, and more dangerous, areas of the city. Police and prostitutes were asked if, in their view, this had occurred.

About one-half of police interviewed said there had been a dispersal of the street trade to non-traditional areas of the city as widely separated as Kingston Road in Scarborough and St. Clair Avenue West. However, no officer believed that this movement was other than sporadic and/or involved a small number of street prostitutes.

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[16]This respondent herself moved her business from Church north of Carlton to Seaton Street in February 1986 because of police enforcement on Church Street. The move was a "scary" one because of the lack of illumination on Seaton.

Almost none of the female prostitutes – and none of the males[17] – stated that they had worked in non-traditional prostitution areas of Toronto.[18] When those with pre-law experience were asked if they knew prostitutes who had changed areas, about one-half said they did – most mentioned movement between the central city and the Queen Street tracks. A few prostitutes mentioned that there were suburban tracks in Scarborough and Mississauga.

In summary, movement from track to track does occur, but the evidence suggests that the street trade in Toronto did not disperse outside the traditional areas after the enactment of Bill C-49. While women prostitutes did shift to strolls east of Church Street, the locations to which they moved had for many years been within a traditional area of street prostitution.

Inter-city Displacement

We have little firm evidence on the degree to which Bill C-49 has precipitated greater movement of prostitutes from city to city. One-half of prostitutes who had worked prior to Bill C-49 had worked in cities other than Toronto, with Montreal most frequently mentioned. Unfortunately, prostitutes were not asked directly whether inter-city movement had increased since the law, but the police were. Many officers remarked that mobility had increased since the law – when "heat was on" in one city, prostitutes moved elsewhere.

Has There Been a Change in the Number of Street Prostitutes in Toronto?

In the absence of baseline data, the answer to this question must be

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[17]All respondents indicated that there had been no displacement to new areas among male prostitutes.

[18]However, all prostitutes were interviewed in the "traditional" locations of street prostitution. This finding may therefore be somewhat questionable.

tentative. In this section, we report the perceptions of prostitutes, police and citizens of areas affected by street prostitution about changes in the numbers of prostitutes.

From the perspective of prostitutes, there has been a decrease in numbers. Almost two-thirds stated fewer persons were working in 1987 than prior to the communicating legislation. One-fifth believed there were more street prostitutes.

Overall, the number of police who said there had been no change or an increase was approximately equal to those who had noticed a reduction. Almost all those familiar with Queen Street West and all those with knowledge of the Lakeshore West strips believed that there were fewer women working there than there had been prior to C-49. This was not the case for the downtown tracks – with one exception, no police officers familiar with the central city strolls reported a decrease in the number of prostitutes.

A limited survey of concerned citizens was undertaken for this research.[19] The survey results that follow must be viewed with caution because:

- The sample was largely made up of activist citizens – those who were active in their efforts to remove street prostitutes from their neighbourhoods. Thus, the sample is not representative of citizens living and working in the red light districts of Toronto.
- There was a low response rate to the mailed questionnaire (approximately 40 per cent).
- There were few respondents familiar with each stroll/track area.

[19]See Chapter VII for results of the survey of concerned citizens.

As with police, there was no consensus among the citizens surveyed as to the changes in the number of street prostitutes in their area.

One-half of survey respondents living or working in Track I said there had been a decrease in the number of prostitutes; the remainder were equally divided between those who believed the same number of women were working, and those who had observed an increase. Most of the respondents who had noticed a reduction lived on streets where there were few prostitutes working in the last half of 1987.

Although police believed there had been a reduction in the number of women on Queen Street West, this view was not shared by the citizens, 60 per cent of whom believed that there had either been an increase or the numbers had not changed.[20]

The few respondents from the Lakeshore area held contradictory views: two persons said there had been a substantial increase since C-49, and two said there had been a substantial decrease in street prostitution.

In summary, perceptions regarding changes in the number of street prostitutes differed by the type of respondent and by the area with which they were best acquainted. A moderate degree of consensus existed with regard to Queen Street and Lakeshore areas: many respondents believed there has been a decrease in soliciting. There was a shift in the streets worked in the downtown core, giving some citizens, but not police, the impression that prostitution had subsided. Both police comments and weekly observations conducted for this

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[20]However, this is based on a very small sample – 6 of a total sample of 10 residents of this area.

research suggest that, in late 1987, there were substantial numbers of prostitutes working in many of the central city strolls: Boystown, Pembroke/George, Jarvis Street, Maitland Street, Huntley–Isabella–Earl.

2. Changes in the Number of Customers

This section presents the evidence with regard to the changes, if any, in the number of customers since the passage of the communicating law.

An individual obviously cannot be deterred by legislation if he or she is unaware of its existence. As the analysis of the print media found (Chapter VII), in 1986–87 there was considerable coverage of the contents of the law, and of the arrests of customers, in Toronto's three daily newspapers. On the other hand, three-fifths of the customers charged with communicating were born outside Canada – the majority in non-English speaking countries – and may not have been informed of the legislation.

Both police and prostitutes believed that most customers were aware that they were liable to prosecution. Almost all the prostitutes sampled believed that 50 per cent or more of their customers knew of the law's existence (Table V.7a).

Prostitutes who had worked in Toronto before C-49 were asked if there had been a change in the number of customers. Approximately two-thirds believed that customers had decreased in numbers. Almost all of this group attributed the drop to Bill C-49, or to the fear of AIDS and the law combined (Table V.7c). When asked if other prostitutes had experienced a change, more than one-half of prostitutes responded that their acquaintances also had fewer customers than they had pre-law.

Most police disagreed that the number of customers had declined, suggesting that both the sweeps and regular enforcement efforts continued to produce large numbers of charges, and remarking that the traffic on many strolls was not visibly reduced.

3. Changes in Danger and in the Number and Role of Pimps

Many of the individuals and organizations initially critical of Bill C-49 believed that the law would increase the likelihood that women would be harmed by "bad dates" and that women would have to rely on pimps to a larger extent than previously. They felt that this would occur by reducing the number of women who worked in teams; increasing the number of car dates (where the sex act is performed in the customer's car), which are less safe; and by increasing the power of the pimp over the woman prostitute.[21]

The Number of Women Working in Teams

Working together in teams of two, three or four is a traditional method of self-protection used by street prostitutes. Team members are available to take down licence numbers of their customers, and to report their absence to the police if they are away from the street for too long.

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[21]Another predicted effect of the law – that work would become more dangerous because women would be more fearful and alienated from police – is discussed below in the relationship between prostitutes and police.

TABLE V.7

CHANGES IN NUMBER OF CUSTOMERS: PROSTITUTE INTERVIEWS*

a.	Prostitutes' assessment of proportion of customers aware of the law	Percentage of prostitutes interviewed
	Half are aware	14.1
	More than half (50% - 90%) are aware	50.7
	Most (90% or more) are aware	35.0
	Total per cent	99.8
	Total number	71

b.	Perceived change in the number of customers**	Percentage of Prostitutes
	No change	31.7
	A reduction	65.0
	An increase	3.0
	Total per cent	99.7
	Total number	63

* Seventy-one prostitutes were interviewed overall, 63 of whom had "pre-law-reform" experience.

** Asked of those with pre-C-49 experience only.

TABLE V.7 (cont'd.)

c. **Reasons for the reduction in the number of customers**

	Prostitutes who noticed a reduction	All prostitutes with pre-law experience
	(percentages)	
The law	55.3	33.3
AIDS	10.5	6.3
Both the law and AIDS	31.6	19.0
Other response	2.6	1.6
Total per cent	100.0	-
Total number	38	63

More than four-fifths of the prostitutes interviewed stated they had not changed their behaviour with regard to working in teams. When asked if they had noticed a general change in this practice, more than one-half (55 per cent) said that *more* prostitutes worked together now, and 39 per cent said there had been no change. Although we have no baseline data on this topic, street observations conducted over nine months indicate that many women work in teams.

Police shared the view that prostitutes were more likely or equally likely to work in teams, as before C-49. Prostitutes working together have better chance of recognizing a prospective customer as a police officer, or recognizing the car as one driven by police.

The Location of Dates

Fears were initially expressed that prostitutes would be forced to use more dangerous venues for their activities. However, more than three-quarters of

prostitutes with pre-C-49 experience stated that the location of their dates was unchanged. Nor did the police believe that there had been any change in the venue of "tricks."

Feelings of Safety on the Job

Prostitutes were asked if they personally felt differently in terms of safety at work than in the past. Two-thirds replied that there was no change, one-quarter said they felt less safe, and one-tenth said they felt safer (because there now more police around).[22] The reasons reported by those who felt less safe do tend to support the views of C-49's critics: there are more weirdos around than in the past; prostitutes do not get as much chance to check out their customers; there are more car dates, which increases the danger to the prostitute; and police are pushing prostitutes to work on darker streets.

When asked if they thought others working on the street experienced greater danger than in the past, about three-quarters of prostitutes said there had not been a change. However, 24 per cent did believe that the danger of the occupation had increased, although few explicitly attributed the change to the law.

Almost all police respondents believed that the degree of danger to the working prostitute was the same post-law as it had been before C-49.

The Number and Role of Pimps

It was widely predicted that Bill C-49 would increase the number of pimps and their hold over the street prostitute – because, for example, the pimp would

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[22]Of some interest is the finding that women working downtown were more likely to report feeling less safe than those interviewed in the "cosier" atmosphere of Queen Street West.

be required to bail the prostitute out of jail, help pay her fines and gain access to customers.

Fleischman (1984: 54), quoting a police report, estimated that 50 per cent of prostitutes working in central Toronto have a pimp. However, in his interview sample, only 2 of 59 prostitutes admitted to having a pimp. It is commonly believed that the woman prostitute does not readily acknowledge that she has a pimp or a boyfriend.

In our interviews with prostitutes, we tried to introduce the subject of pimps by first asking what the respondent thought of the pimping laws. A substantial proportion thought that it was up to the woman what she did with her money, unless the man was abusive. While one-quarter of those interviewed said they had had a pimp since the law was enforced in January 1986, very few said they *currently* had a pimp or a "man." No woman said that the legislation had necessitated her getting the protection and assistance purportedly offered by a pimp.

One-quarter of the women with pre-C-49 experience on the Toronto streets expressed a belief that prostitutes had to rely more on pimps now than in the past. One-half of prostitutes reported that there were the same number of pimps as prior to the legislation; one-quarter said there were fewer (often mentioning that this was because so many had been incarcerated); and one-quarter said there were more.

Although in 1987-88 some police believe that up to 80 per cent of the women working in Toronto have pimps, the majority of police respondents said there had been no increase in the number of pimps working the city. Several

officers remarked that there were more pimps because there had been an increase in the number of prostitutes – the more women, the more pimps.

Summary

According to most Toronto prostitutes and police interviewed for this research, the introduction of the communicating law had not affected the danger of the streets. A minority attributed feelings of increased danger to the law. A similar minority believed that there were more pimps around than there were prior to C-49.

4. Changes in the Relationship Between Street Prostitutes and the Police

There is a traditional affinity between police and street prostitutes. As one senior officer explained, this affinity is between police and all those who work at night, whether they be street cleaners, taxi drivers or prostitutes. Moreover, police frequently use street people for information on illegal activities unconnected with prostitution (e.g., drugs, robberies). We initially speculated that the police-prostitute relationship would be damaged by the new law – police would have an additional power over their lives that would make prostitutes resentful, alienated and unwilling to call them for assistance. Most respondents denied that this had occurred.

This is not to say that prostitutes necessarily view police positively. In both 1984 and 1987, about one-half of prostitutes interviewed said police were "Okay" or made another neutral comment, such as "they're doing their job." Between 22 per cent and 32 per cent of the two samples expressed dislike for the police.[23]

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[23]In the 1987 interview sample, some prostitutes were asked their attitudes toward uniformed and plainclothes officers. One-half of prostitutes expressed dislike for plainclothes officers, and only one-quarter disliked uniformed officers.

(See Table V.8.) These data therefore suggest that there has been no major change in the attitudes of prostitutes pre- and post-legislation.

When prostitutes with pre-C-49 experience were asked if their attitudes toward police had changed since Bill C-49, about three-quarters said they had not changed, and about one-fifth reported that they had changed for the worse.

TABLE V.8

ATTITUDES TO POLICE, 1984 AND 1987: PROSTITUTE INTERVIEWS

Note: The question used in 1984 (Fleischman 1984: 84) was "Do you get along with the police?" In 1987 we asked "How do you feel about the police?"

	1984	1987
	(percentages)	
"Okay" or other neutral comment	54.1	50.0
Badly (e.g., dislike)	21.6	31.8
Well	24.3	n/a
Other response (e.g., good and bad)	n/a	18.2
Total per cent	100.0	100.0
Total number	37	66

Prostitutes were also asked what, in their opinion, was the attitude of police toward them. About one-half believed they were viewed negatively by police. Most prostitutes with pre-law experience stated that police attitude toward them had not changed with the enactment of the communicating law.

Most police reported no change in their relationship with street prostitutes, commenting that:

- "There was some animosity at the beginning, but the girls realized that the government, not the police, made the law."
- "If police treat the girls like human beings, they will talk to officers."
- "Most girls expect to be done once a month."
- "Relationships depend on the person. There will always be the hard-core person who will have little to do with the police."
- "Some people will give information with or without C-49. I don't deal in exchange of information with the girls – the majority of them are full of shit and much of their information is not reliable."

Several officers noted that the communicating law gave police the opportunity to get to know prostitutes better, thus increasing their willingness to talk (about pimps, bad dates, underage girls on the streets, etc.).

Thus, the interview data from both police and prostitutes suggest that there has been no major disruption in their relationship.

5. Other Changes in the Street Trade

Street prices, incomes and the type of services offered are briefly discussed in this section.

About one-half of the prostitutes who had worked prior to C-49 said that prices had increased, either to match inflation or for unspecified reasons. Just over one-third said prices had remained the same, and 17 per cent had observed a decline. (Respondents who worked downtown were much more likely to have noticed a change in prices than those who worked on the less prestigious Queen

Street West.) In the view of the police, street prices had remained the same or gone up with inflation. Three officers felt that prices had increased because of the law, citing lawyers' fees and fewer johns as the direct cause.

Prostitutes were also asked if the income of prostitutes they knew had changed. About 40 per cent believed that incomes of their acquaintances had gone down. Several women noted that they now had to work harder (e.g., put in longer hours) in order to make the same money as they did prior to the communicating law.

More than 90 per cent of the prostitutes interviewed stated that they offered the same services as they had prior to the legislation. About one-third had noticed that the distribution of the type of services requested by customers had changed (e.g., more fellatio because it was faster and cheaper).

6. Summary[24]

A number of the topics addressed in this section were raised by persons concerned that the communicating legislation would have negative repercussions for conditions in the street prostitution trade. They believed that prostitutes would be placed in more dangerous situations because women would have to move out of their familiar working territory or go underground, because they would be less likely to work in teams, because pimps would have a greater hold over the prostitute than in the past, and because the customary relationship between police and prostitute would be damaged. To our surprise, we found no strong evidence that these concerns had been realized in Toronto.

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[24]For further discussion of the issues raised in this section, see Chapter IX.

On perhaps the most crucial issues – whether there has been a change in the numbers of street prostitutes and of customers in the city – the evidence is more conflicting and inconclusive. This may be in part because of the data sources. The reliance in this section on retrospective perceptual data (from prostitutes, police, citizens and social agency staff) has drawbacks. Perceptions are potentially unreliable, not because of a wish to deceive or distort, but because the *weltanschauung* of the respondent is a circumscribed one. This is particularly the case when the topic is the change over time in a large-scale phenomenon, such as in the number of "working girls" – topics such as these are notoriously subject to problems in recall and to the influence of intervening events. Although prostitutes are almost certainly the best persons to ask about their working conditions, they (and police, citizens and agency staff, for that matter) may lack the perspective necessary to comment accurately on topics not directly related to their immediate environment.

With regard to changes in the number of prostitutes and customers, prostitutes reported both that there were fewer persons working on the street and that their business had declined since the passage of s. 195.1. Police had observed either no change or an increase in the number of prostitutes in the downtown area. Most police believed that the law had acted as no deterrent to customers – or at most a mild one – citing traffic on the strolls and customer arrest figures as evidence.

D. OFF-STREET PROSTITUTION

The displacement of prostitution from the street to other indoor locations such as hotels, bars and escort agencies was frequently predicted to be one effect of Bill C-49.

In this section we first examine the degree to which displacement has occurred in the view of prostitutes and police. Ideally, these data would be supplemented by interviews with escort workers, in order to discover how many escorts had moved from the street to agencies as a result of the communicating legislation. This research was not able to gain access to escort agencies for this purpose.

We next explore the growth of the off-street sex business as a whole, using data from secondary sources such as advertisements.

1. Police and Prostitute Views on Displacement

As discussed earlier, most police believed that there had been no, or only minimal, displacement from the street to indoors. The majority of prostitutes said they knew persons who had left the street to work elsewhere – about one-half stated that they knew only one to three persons who had changed the aspect of the business in which they worked. These prostitutes essentially agreed with police in that they reported only minimal displacement. The large majority of prostitutes said that their acquaintances had moved to escort agencies, not to hotels or bars.

Street prostitutes were also asked if they themselves worked in locations other than the street. Relatively few do so; between 13 per cent and 17 per cent currently work in escort agencies, hotels or bars in addition to the street.

Five off-street prostitutes interviewed for this study were asked their impressions of the movement from the streets to indoors.[25] The impression of the

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[25]Three had started on the street and two had left the street before the communicating law. At the time of the interviews, four worked solely through

experienced off-street prostitutes was that there had been a proliferation of escort services since the legislation, and that some women[26] had left the street to work in them. However, none of these respondents had close current contacts with the street and only one worked for an escort agency.

2. The Growth of the Off-street Business

Advertisements in the Yellow Pages of the Metropolitan Toronto telephone directory and in the weekly *Now* magazine are the main sources of information on the change in the number of escort agencies and in individuals offering off-street sexual services.

In 1984 there were 121 escort agencies advertised in the Yellow Pages (Fleischman 1984: 38) and there was no change in the two subsequent years (e.g., in 1986 there were 117 ads). In 1987 there were 143 ads, an increase of 22 per cent over 1986. A police respondent estimated that about 10 per cent of the "agencies" were in fact a single person doing out-calls ("perfectly legal"), and a further 40 per cent were "dummy" agencies (i.e., one agency would advertise under a variety of names and telephone numbers). This officer suggested that there is "about a 10 per cent crossover" between agencies and the street, with some street prostitutes carrying pagers.[27]

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advertisements and were "independents."

[26]According to one informant, there are only a few escort agencies serving the gay community. This person believed that there was almost no movement of male prostitutes from the street to agencies, a viewpoint that was supported by the male street prostitutes interviewed.

[27]In our interview sample of prostitutes, four women carried pagers.

According to our police and prostitute respondents, the current organization of the escort business in Toronto is very similar to that described by Fleischman (1984). One variant in business practices is that in some agencies, the escorts are obliged to wait on the agency's premises until sent on a call. In the past the practice was for the agency to telephone women when their services were required. This new procedure was seen as adding another dimension of control over the escorts' working lives – escorts could not refuse because of the increased competition for business.

One aspect of the sex trade that is distinctly different from that reported by Fleischman in his 1984 research is the growing number of "independents" – men and women unaffiliated with agencies who work through advertisements. Some do out-calls only; others also work in their own homes. *Now* magazine is the main advertising medium, as none of the three Toronto daily newspapers accept ads from escorts.[28] Male prostitutes often also advertise in various gay periodicals in the city.

The majority of ads in *Now* are (or appear to be) placed by individuals. For example:

- "A young athletic male will give a personalized fully body massage to gentlemen who can afford quality."
- "Act out your fantasies now, dominant, kinky, or whatever. Your pleasure is mine ... safe and discreet. Call Dave."
- "A classy, beautiful blond, elegant, sophisticated, Linda Evans-type. Older, serious, generous businessmen only."
- "Dana. Tall sexy blonde. Total discretion assured."

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[28]According to the classified sections of the three Toronto daily papers in mid-1987.

- "Gorgeous, well-endowed blue-eyed blond beauty available as escort. Out-calls only. (pager number) Amex accepted."

There are considerably fewer agency ads:

- "'Funtime Escorts' beautiful ladies and handsome guys are waiting for your call. All types available. (M) phone number. (F) phone number."

- "Brown sugar escorts. Both black and white ladies for you men with a sophisticated sweet tooth.[29]"

A count of "sex for sale" escort and massage advertisements in *Now* magazine for the three years between January 1985 and December 1987 was done for this research.[30] Figure V.3 shows the trends over time in the total number of advertisements for escorts/massage (both individuals and agencies, both males and females on offer), and the number of ads offering women to (presumably) heterosexual males. The sizeable difference between the totals and the female counts is because the totals include males offering their services to other males. Although in 1985 there was an increase in the total number of ads from about 5 per issue to about 35 per issue, that growth was minuscule compared with the post-C-49 increase. In late 1987 there was an average of more 100 ads per issue. The number of ads involving women selling sex did not increase markedly until 1987. By the last half of 1987, there was an average of more than 70 women's ads per issue, compared with fewer than 10 per issue in 1985.

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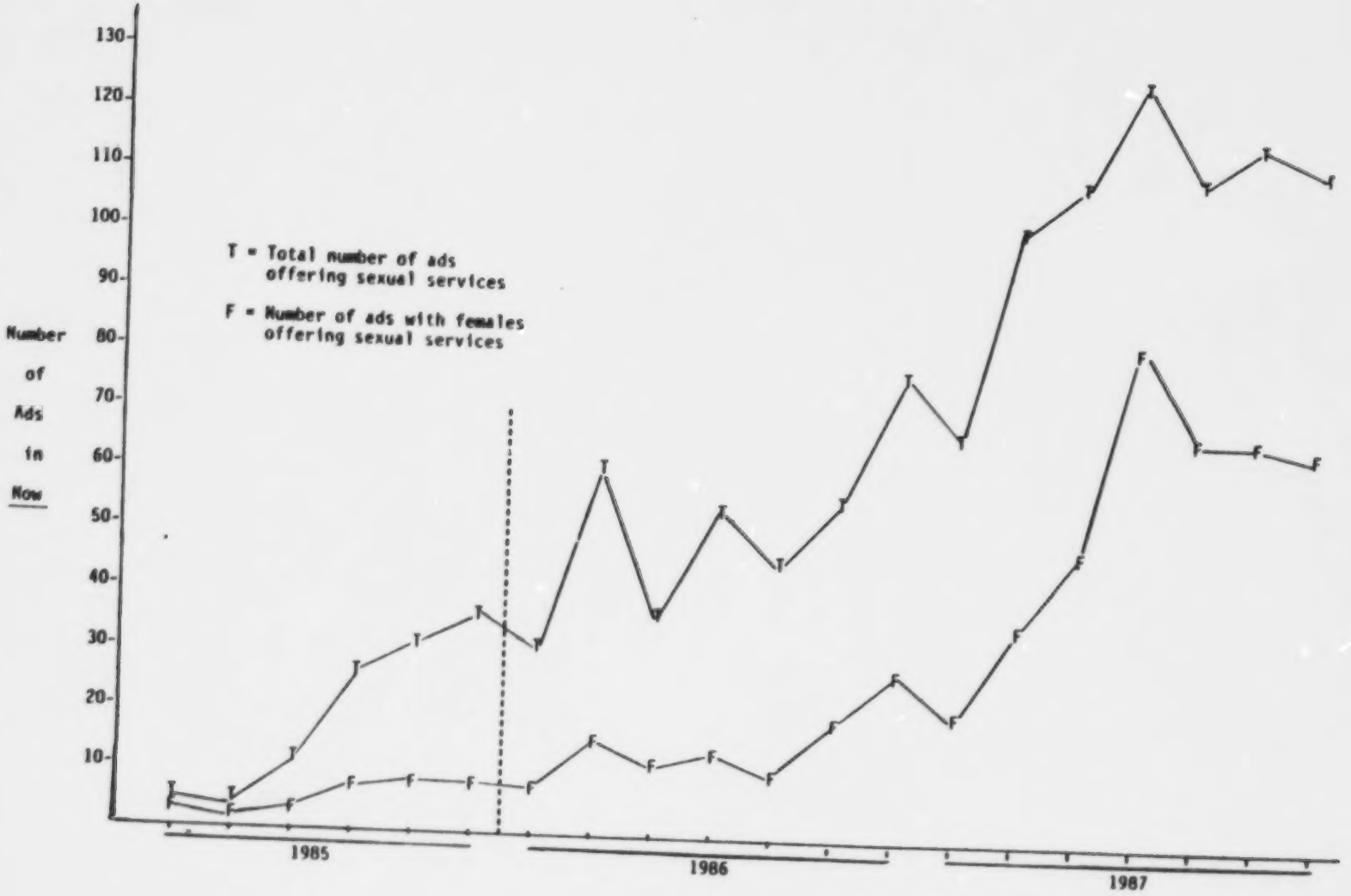
[29]*Now* magazine, December 3-9, 1987.

[30]One issue per month was counted. The data in Figure V.3 have been combined bi-monthly for ease of presentation; the first point represents the mean count for an issue in each of January and February 1985, the second point, the average for March and April 1985, etc. The counts exclude telephone sex, videos, sex shows, etc.

FIGURE V.3
ADVERTISEMENTS FOR SEXUAL SERVICES IN *NOW* MAGAZINE, 1985-1987



These data indicate that there has been growth in off-street sex sold by individuals as well as organizations. It is less clear whether men who might have considered using a street prostitute if not for the communicating law are now turning to escorts and independents for the service. Is the market the same? The price differential between the street and indoors would suggest that, like the women themselves, the customers of street and off-street prostitutes may represent two largely different populations.

Twenty escort agencies listed in the 1987 Yellow Pages were telephoned at random to ascertain their prices.[31] An upfront agency fee of $100 is common; above that, the escort requests between $150 and $200 per hour. Other agencies would not separate an agency fee, but quoted hourly rates between $200 and $350. In almost every case, the customer receives a discount for cash. The agencies contacted were not willing to negotiate prices.

In Toronto, arrest data include the price of the services offered by prostitutes to undercover officers. The large majority of charged prostitutes initially quoted the following prices: between $40 and $50 for oral sex; between $60 and $80 for intercourse; and $80 to $100 for both. In comparison with the minimum $200 asked by escorts, the street is a bargain.

[31]Four of the 20 agencies telephoned were out of service.

CHAPTER VI:
PROSTITUTION INVOLVING YOUNG OFFENDERS

A great deal of media attention has been given to the number of street youth, runaways and juvenile prostitutes in Toronto - a city that is often labelled the eastern Canadian Mecca for young people who leave home. Both pre-Bill C-49 (see Fleischman 1984) and continuing post-law, juvenile prostitution has been perceived as a critical problem. Authorities often express the view that the need to make money, combined with the temptation offered by pimps and the excitement of street life, push large numbers of young people, particularly girls, into prostitution. For example, a 1987 newspaper article stated:

> The number of girls who fall prey to these persuasive pimps is unclear. Estimates of the number of juveniles involved in prostitution range from a solid core of 500 to upwards of 2,000 in the summer.
>
> *Toronto Star*, April 30, 1987

Most persons knowledgeable about street prostitution in Toronto have estimated that the *total* number of street prostitutes in the city is approximately 1,500.[1]

This chapter first describes briefly the social agencies available to young offender prostitutes, then discusses the magnitude of the juvenile prostitution problem in Toronto, and concludes with an analysis of the legal characteristics of young people charged with s. 195.1 offences and their case processing by the youth justice system.

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[1]The Morality Bureau has identified 1,200 working prostitutes since November 1986. A senior officer suggested that it is unlikely that there are more than 300 who have not been identified.

A. SERVICES FOR YOUNG PROSTITUTES

The year 1985 appeared to be a peak year for public and media concern about youth prostitution in Toronto. For example, in the summer of that year, a committee of Metro Toronto Council held "extensive hearings" on youth prostitution. In May 1985 Moberly House was opened in downtown Toronto after lobbying efforts of the Youth and Family Services Bureau of the Toronto Police. Moberly House offers emergency short-term care for children under 16 years of age who are runaways and juvenile prostitutes. After assessment and medical examinations, the program either returns the child to his or her home, or refers the child to the second stage of the program (Cassata Warrendale) for longer term treatment.

In the fall of 1985, Street Outreach Services (SOS), funded by Anglican Houses and Ministry of Community and Social Services and with an initial mandate to deal with 16 to 21 year old prostitutes, began its streetworker program in the downtown and Queen Street West prostitution tracks. Later, the upper age limit was increased to 24 years. SOS also provides a high support phase for youth wanting to leave the prostitute lifestyle, as well as housing, employment and counselling services for youth who drop in at the facility.

Other, longer established programs directed toward troubled youth and runaways, including prostitutes, are: Covenant House, the Inner City Youth component of Huntley Youth Services, the Downtown Churchworkers' Association streetworker program, Central Toronto Youth Services, Mercury Youth Services, the Hassle Free Clinic (medical services), Beat the Streets (largely focusing on literacy and job readiness training), Street Haven and a number of hostels. Toronto is probably the best-serviced city in Canada, not only in terms of the

number of programs directed toward street youth but also in terms of the variety in orientations and services.

B. THE NUMBER OF YOUNG PROSTITUTES IN TORONTO: WHERE HAVE ALL THE JUVENILES GONE?

In the arrest data collected for this research, only one prostitute charged with communicating was under 16 years (she was 15)[2]. As noted elsewhere, the policy of the Metropolitan Toronto Police is to not charge prostitutes 15 years or younger unless they are recidivists; instead, they are referred to social services, especially Moberly House.[3]

Thirteen per cent of the total number of charges laid against prostitutes by Metropolitan Toronto Police involved 16 and 17 year olds, according to our analysis of police records for the period between January 1986 and August 1987. Although unlikely, it is possible that our random sample in some way underestimates the number of young offenders; it is also possible that some young offenders successfully lied to police about their age and were thus processed as adults. It does not seem probable, however, that the impact of these factors would substantially raise the proportion of young persons charged with communicating.

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[2]As our data were a sample of charges laid, it is possible that the 0.04% of prostitutes under 16 years is a slight underestimate of the proportion of underage prostitutes in the total population of charges laid against street prostitutes in Toronto.

[3]For example, Metro Police statistics for the last six months of 1986 show that 35 juveniles under 16 years of age were apprehended under provincial child welfare legislation by the Juvenile Task Force; however, we cannot be sure that all 35 young persons were working as prostitutes at the time of apprehension.

Because several respondents had observed that the number of young persons working the streets had decreased between 1986 and 1987, the proportion of young offenders charged over time was examined. In January to September 1986, 19 per cent of prostitutes charged with communicating were young offenders; in October to December 1986, the proportion was 7 per cent; in January to August 1987, about one-tenth were under 18 years. In neither year was there an increase during the summer months in the number or proportion of charges laid against young offenders. (We would have expected that the number of underage prostitutes charged by police would increase when school is out.)

Thus, the analysis of file data suggests that in 1987, youths under the age of 18 did *not* constitute a substantial proportion of the persons charged with communicating (only 10 per cent), and compared with 1986, young offenders made up a smaller proportion of all prostitutes charged.

The views of most social agencies contacted for this research support these findings, in that respondents believed that there were fewer young girls working the traditional strolls than in the immediate past. Almost every social agency respondent believed that a major effect of Bill C-49 and its enforcement by police was to drive underage prostitutes "underground." In this view, because young women are "terrified of being busted," they have moved to alternatives such as hotels, bars, escort agencies, personal ads and to unknown locations. The law has "caused kids to become connected with adults who create opportunities for them to prostitute privately" (i.e., indoors). Young prostitutes have "relocated to other parts of the city" – in this view, new prostitution areas have been developed on Danforth, in Scarborough and in other suburban locations. Some agency workers suggested that young prostitutes are more mobile than in the past. To avoid arrest, they move from one area of Toronto to another, and from one city to

another.

The analysis of displacement and movement to indoor prostitution (Chapter V) found no strong evidence to support these perceptions of social agency staff.

The majority of police with pre-law experience agreed that there were fewer young persons, especially children under 16 years, working the Toronto streets in 1987-88. Some believed that the communicating law may have deterred the very young from starting working as prostitutes and/or that being apprehended had deterred some young persons. Officers involved in the investigation and prosecution of pimps believed that the long prison sentences (e.g., 12 years) given pimps who controlled young persons have contributed to the decrease in the number of juveniles under 16 years. Their argument is that the fewer the number of pimps willing to take the risk of severe sentences, the fewer the number of underage girls working as prostitutes.

A senior police officer suggested several possible reasons for the relatively few young offenders found in police charge files:

- The age distribution of the Canadian population has changed, so that there are fewer young persons "eligible" to be young offenders than there were in the 1970s and early 1980s. He noted that crime in general by young offenders has declined.

- AIDS education in schools may have made some young people "think twice" before turning to prostitution.

- The economic climate of the late 1980s is much stronger than earlier in the decade (at least in Ontario) and "running" is less likely to occur when the family's economic situation is relatively good (i.e., domestic pressures caused by the economy are not as prevalent).

- Police enforcement may have missed young offenders. It is possible that many young persons work in the daylight hours, when police

charging activity is lower.

There is no ready answer to "where have all the young prostitutes gone?" It is, of course, possible that the premise of the question – that there were large numbers of juvenile prostitutes working the Toronto streets prior to Bill C-49 – is itself mistaken. Since the only evidence for the pre-law magnitude of the problem is the subjective observations of police and social agency staff, no definite conclusions can be drawn.

In summary, perceptions of police and social agency respondents tend to support the conclusions resulting from the analysis of police file data: in 1986, and especially in 1987, there were relatively few young offender prostitutes working the Toronto streets. Although the characteristics of persons charged by police are not usually believed to be accurate reflections of all lawbreakers, the police records may more closely approximate the actual population than usual. In fact, it is possible that underage female prostitutes are over-represented in police files. First, police may be more, rather than less, likely to approach a prostitute if she appears to be under 18 years. Second, it is unlikely that the young offender would be especially skilled at police avoidance methods. We would be more inclined to hypothesize that the younger the prostitute, the more likely she would be to "crack" to police because of inexperience in avoidance tactics.

Whether the seeming reduction in number of young street prostitutes is directly attributable to Bill C-49 is uncertain: the police argue that the reduction is probably largely independent of the law, whereas many social agency respondents believe that the law has had an influence. We would suggest that the 1987-88 economic climate in southern Ontario – a low unemployment rate and (what appears to be) a large number of unskilled jobs available – may have

contributed to the apparent decrease in the number of young women working the streets.

Undoubtedly, however, most social agencies interviewed for this research believe that the anti-soliciting legislation has made it more difficult for them to serve their prostitute clients. In the opinion of many respondents, Bill C-49 has negatively affected their ability to reach young women.

C. THE LEGAL CHARACTERISTICS AND CASE PROCESSING OF YOUNG OFFENDERS

In this section, the legal characteristics (prior record and the number of current charges) and the court processes experienced by young offenders are briefly described, commenting where appropriate on the differences between young offender and adult prostitutes charged by the Toronto police. No analysis by gender of the young offender prostitute is possible because 93 per cent of young offenders charged were female (4 per cent were males and 3 per cent were transvestites).

1. The Legal Characteristics of the Case

There was no difference between young offenders (56 per cent) and adults (61 per cent) in the likelihood of their having a prior conviction on a *Criminal Code* offence. However, 8 per cent of young offenders, but 19 per cent of adults, had an earlier conviction for communicating. When we look at prior communicating *charges*, only one-fifth of young offenders, and almost one-third of adult prostitutes, had been charged with communicating in the past.

The legal status of the young offender at the time of the communicating charge did not differ appreciably from that of adults: 22 per cent of young offenders were on probation, 20 per cent had pending charges or were on bail, and 58 per cent had no legal involvement.

Young offenders were twice as likely as adults to have multiple current charges being dealt with by the court: 38 per cent of young offenders and 17 per cent of adults had two or more charges laid as a result of the communicating incident.

2. Case Processing by the Youth Justice System

There were no significant differences between young offenders and adults in terms of detention at arrest: 24 per cent of young offenders were held for a show cause hearing, compared with 30 per cent of adults. As was the case for adults, relatively few young persons were detained by the court at their show cause hearing; only 22 per cent of young prostitutes who were "show caused" received a detention order.

The *Young Offenders Act* legislates the right to counsel for young persons accused of *Criminal Code* offences; not unexpectedly, only 3 per cent of young offenders versus 19 per cent of adults were unrepresented at their hearings. Most young offenders retained counsel – probably obtained via legal aid rather than privately.

The nature of the plea on the communicating charge did not differ from the pleas made by adults: 80 per cent of young prostitutes pleaded guilty, 15 per cent made no plea because the communicating charge was withdrawn, and only 4 per cent pleaded not guilty to the charge. Almost all (95 per cent) of young

persons were convicted on at least one of the charges in the incident; the same figure for adults is 92 per cent.

Slightly less than one-half of young offender prostitutes were sentenced to a term of probation. Other dispositions were absolute discharges (19 per cent), fines (17 per cent), and open or secure custody (15 per cent). Compared with adults, young offenders disproportionately received probation, were much less likely to be fined, and slightly less likely to be placed in a custodial setting.[4] (See Table VI.1.)

TABLE VI.1

TYPE OF SENTENCE RECEIVED: YOUNG OFFENDERS VERSUS ADULT PROSTITUTES

	Young Offenders	Adults
	(percentages)	
Absolute discharge	18.6	11.7
Conditional discharge	n/a	15.0
Suspended sentence	n/a	13.2
Fine	17.2	32.4
Probation	48.8	3.5
Custody (open or secure)	15.3	24.2
Total per cent	99.9	100.0
Total population estimate (number)	215	1,367

[4]The sentencing structure of the *Young Offenders Act* differs from that for adults. Conditional discharges and suspended sentence are not found in the act.

CHAPTER VII:
PUBLIC OPINION ON BILL C-49

In this chapter, we describe the nature of the coverage given to prostitution and specifically to Bill C-49 in the Toronto print media, the reaction of social agencies to the law and its perceived effect on service delivery and the street prostitution issue, and the reaction of community members who live or work in areas of street prostitution to the amended s. 195.1 and its implementation by the police and the courts.

The rationale for examining the response of these three institutions is as follows:

The media both influence and are influenced by public opinion on controversial subjects. The portrayal of Bill C-49 in the three Toronto daily newspapers provides one indicator of the response of area citizens to the communicating legislation.

Initially we hypothesized that because the law may have had far-reaching effects on the street prostitution trade, the agencies serving prostitutes may have found that their prostitute clients required additional services as a result of their liability for justice system intervention. As we described in Chapter IV, few major impacts of Bill C-49 were reported by police and prostitutes. On the other hand, it is still possible that agency personnel have observed some negative effects of the law on prostitutes and on the ability of the social service system to meet their changing needs.

Finally, the reaction of the affected communities to the law is crucial. Along with the police, it was pressure from Canadian citizens living and working in areas of street prostitution that led to the passage of Bill C-49. The reaction of those sectors of the community most affected by street prostitution represents an important indication of the effectiveness of Bill C-49 in achieving its goal of eliminating street solicitation in residential areas.

A. THE MEDIA

There are three daily newspapers in Toronto: the widely read tabloid, the *Toronto Sun*; the paper with the largest circulation in Canada, the *Toronto Star*; and "Canada's national newspaper," *The Globe and Mail*. Articles on prostitution in each of these newspapers were obtained for the period between October 1985 and December 1987.[1]

Only a subset of the articles refer specifically to the communicating law. Others report on aspects of prostitution such as pimps, the problems experienced by runaways and street youth who turn to prostitution, escort agencies, AIDS and prostitution, and violence against prostitutes (among other topics). Of the approximately 300 newspaper reports coded for this research, just over one-half implicitly or explicitly referred to C-49. (By an "implicit reference," we mean articles that report on the continuing problems generated by street prostitution, or other similar themes, but make no specific reference to the law itself.)

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[1]Unfortunately, data sources for 1987 were less complete than for the earlier years; the number of 1987 articles is in all likelihood an underestimate of the total. The *Toronto Sun* may be especially underrepresented, because some clipping sources (e.g., the library of the Centre of Criminology, University of Toronto) do not clip the *Sun*.

1. The Triggering Incident

The nature of the incident or event that precipitated the news article on prostitution, and changes over time in this, are found in Table VII.1. In late 1985, parliamentary debates, and federal and municipal politician interviews, news releases, meetings, etc. accounted for more than 60 per cent of the articles. No one category of triggering incident predominated in 1986 and 1987. However, by 1987, 28 per cent of the articles had arrests or court cases of prostitutes or customers as the precipitating incident (in 1986 the figure was 15 per cent). In both 1986 and 1987, *Charter* challenges to the law constituted about 15 per cent of prostitution-related reports.

2. The Type of Prostitution

Newspaper reports focused heavily on street prostitution: 85 per cent of articles were exclusively about the phenomenon or made some reference to it (Table VII.2). Seven per cent of articles discussed escort agencies.

While many reports did not refer to age, it is noteworthy that some reference to "juvenile" prostitution was found in slightly more than one-third of articles. One of the most delightfully lurid of these reports was from the *Toronto Sun*, whose headline read "Torture, slavery rule teen hookers" (4 November 1987).

TABLE VII.1

"TRIGGERING INCIDENT" OF PROSTITUTION-RELATED REPORTS IN THE TORONTO PRINT MEDIA (OCTOBER 1985 TO DECEMBER 1987)

	1985	1986	1987
		(percentages)	
No specific triggering incident	-	14.6	9.7
Charter challenge (s. 195.1)	-	16.6	15.3
Court cases			
- prostitutes and/or customers	-	6.0	13.9
- pimps	7.4	10.6	-
- other	5.9	1.3	1.4
Police enforcement			
- prostitutes and/or customers	-	8.6	13.9
- pimps	1.5	4.6	9.7
- other	-	0.7	1.4
Federal government official speech, news release, etc.	8.8	7.3	-
Municipal politicians' meeting, news release, etc.	17.7	6.6	2.8
Community group meeting, news release, etc.	1.5	1.3	5.6
Social services meeting, news release, etc.	1.5	4.6	2.8
Prostitutes' advocacy group interview, meeting, etc.	-	2.6	1.4
Other advocacy group (e.g., NAC, CBA)	4.4	-	1.4

TABLE VII.1 (cont'd.)

	1985	1986	1987
Violence against prostitute, other violence	7.4	0.7	2.8
Police interview, news release, etc.	5.9	6.0	8.3
House of Commons/Senate debates	35.3	4.6	-
AIDS and prostitution	-	3.3	8.3
Other	2.9	2.6	5.6
Total per cent	100.2	102.6	104.3
Total number	67	151	72

Note: Percentages add up to more than 100% because some newspaper reports had more than one triggering incident.

References to homosexual prostitution (i.e., male prostitution) were scanty; only 3 per cent of the total number of articles mentioned the issue. Contributing factors to the print media's inattention to the phenomenon may be the lower degree of police enforcement in the "Boystown" area and the relative lack of vocal community protest about the hustler scene.

TABLE VII.2

PROSTITUTION EMPHASIS IN THE TORONTO PRINT MEDIA: TYPE OF PROSTITUTION, AGE AND SEXUAL ORIENTATION

	Percentage of articles
Type of prostitution	
Street prostitution	84.8
Escort services	7.3
Bars, hotels	3.1
Bawdy houses	5.5
Type not specified	12.8
Total per cent	113.5
Total number	289
Age Emphasis	
Juvenile prostitutes	18.3
Adult prostitutes	3.5
Both juveniles and adults	16.9
No age emphasis	61.4
Total per cent	100.1
Total number	290
Heterosexual vs. Homosexual	
Heterosexual	42.9
Homosexual	1.0
Both heterosexual and homosexual	2.1
Not specified	54.0
Total per cent	100.0
Total number	289

Note: The percentage of "type of prostitution" adds up to more than 100% because some articles contained references to more than one type.

3. Street Prostitution Tracks

Three-quarters of reports that made some reference to the location of street prostitution in Toronto mentioned the downtown track, with Queen Street being mentioned in about one-quarter and the Lakeshore in about one-fifth of the reports. Track II or "Boystown" was referred to in only five articles.

4. Reaction to Bill C-49

Table VII.3 shows the views of Bill C-49 as expressed by persons quoted in the article (most often) or by the newspaper itself (infrequently in, for example, columns or editorials) over the two-year and three-month period. The reactions to the legislation were categorized as follows:

- positive or neutral: The tone of the comments cited or the commentary was approving of the legislation or it was informational (neutral) in tone or a combination of both.

- mixed positive and negative: Both positive and negative comments about Bill C-49 were found in the same article.

- negative: There were no positive comments in the report; all comments were negative about the law or about the law and its handling by the courts.

- negative regarding the courts: There was no negative comment about the law per se in the article, but there was an unfavourable comment about the sentences being imposed by the courts.

TABLE VII.3
VIEWS OF BILL C-49 IN THE TORONTO PRINT MEDIA OVER TIME

	1985 (Oct-Dec.)	1986	1987	Total
		(percentages)		
Positive or neutral (informational) comments	36.1	29.4	21.1	28.9
Mixed positive and negative comments	33.3	23.5	21.1	25.2
Negative comments	30.6	42.3	50.0	41.5
Negative re: the courts only	-	4.7	7.9	4.4
Total per cent	100.0	99.9	100.1	100.0
Total number of references to Bill C-49	36	85	38	159

During the pre-law period in October to December 1985, there was no one overall tone of the articles in the Toronto media: each of three categories (positive, mixed and negative) were equally represented. As time went on, however, there was a decline in the proportion of articles that expressed approval of C-49: positive comments dropped from 36 per cent in 1985 to 21 per cent in 1987, and articles with mixed positive and negative references dropped from 33 per cent to 21 per cent. More than one-half of the 1987 reports were wholly negative in tone. Data not shown in tabular form reveal that, by the last six months of 1987, 19 of the 22 articles were negative about the law (16) or the courts (3).

Regardless of the triggering incident, articles with negative comments tend to predominate (Table VII.4).

This is particularly true for reports of advocacy group activities: 12 out of 13 articles generated by community anti-prostitution groups, prostitutes' advocacy organizations and other advocacy organizations were entirely negative in tone.

The precise reasons for many of the negative citations are found in Table VII.5. Observers predicted or had perceived more pimps, more danger to street prostitutes, more organized crime and more displacement to indoor locations. Although the overall opinion of the predicted or actual change in the nuisance factors associated with street solicitation was positive (18 of 33 articles), all 12 articles that stated that there has been no improvement with regard to the "nuisances" were published from July 1986 to December 1987 (data not shown in table form). Similarly, 14 of the 15 articles that noted that there were the same number or more prostitutes on the street were written after July 1986; only one article (pre-law) had predicted that the law would fail to decrease the number of street prostitutes.

Although positive reports about police enforcement of Bill C-49 were most common (16 articles), the same was not true of the courts: of the 20 articles making some reference to sentencing, 15 expressed a negative view. Finally, articles that referred to the far-reaching nature and vagueness of the law were very common (44 articles). (See Table VII.5.)

TABLE VII.4

VIEWS OF BILL C-49 IN THE TORONTO PRINT MEDIA BY THE "TRIGGERING INCIDENT"

	Positive and/or neutral	Mixed positive and negative	Negative re Bill C-49 or the courts
		Number of Articles	
No specific triggering incident	4	7	5
Charter challenge	2	16	17
Court cases re: prostitutes or customers	7	0	9
Police enforcement re: prostitutes or customers	8	1	5
Federal or municipal politicians or officials' meeting, news release, etc.	5	4	10
Community group meeting, news release, etc.	0	0	6
Social services meeting, etc.	0	1	1
Prostitutes' advocacy groups, interviews, etc.	0	0	2
Other advocacy groups	0	0	3
Police interview, news release, etc.	6	0	6

TABLE VII.4 (cont'd.)

	Positive or neutral	Mixed positive and negative	Negative re Bill C-49 or the courts
		Number of Articles	
House of Commons, Senate debates	10	11	10
Other	4	0	1
Total number of references to Bill C-49	46	40	75

TABLE VII.5

VIEWS OF THE EFFECTS OF BILL C-49 AND ITS IMPLEMENTATION IN THE TORONTO PRINT MEDIA

	Number of Articles
Fewer juveniles (there will be, there are)	9
Pimps	
- fewer	3
- more, more violent, dangerous	16
- opposing views in article	1
Danger to prostitutes	
- less danger	1
- more danger	12
- opposing views	2

TABLE VII.5 (cont'd.)

	Number of Articles
Organized crime in prostitution	
- less	1
- more	6
Displacement to other cities, areas	
- negative comment	3
- neutral comment	6
Displacement "indoors"	
- negative comment	12
- neutral comment	11
- opposing views	3
The "nuisance" factors (predicted or actual effects)	
- streets have improved/will improve (e.g., litter, traffic)	18
- streets have not improved	12
- the law won't reduce nuisance factors	3
The number of prostitutes on the street (predicted or actual effects)	
- the same or more prostitutes on the street	15
- fewer prostitutes	35
- opposing views	1
Deterrence of customers	
- law does deter	12
- law does not deter	8

TABLE VII.5 (cont'd.)

	Number of Articles
Police enforcement of C-49	
- positive comment	16
- negative comment	8
- opposing views	4
Sentencing	
- positive comment	5
- negative comment	15
Other comments	
- the law is too far reaching, permits excessive police discretion, too vague	44
- the law does not address the social, economic issues of prostitution	20

B. SOCIAL AGENCIES

Data sources for this section are interviews with social service personnel whose primary interest is prostitutes and other street people, and a report of a pilot project on the adult female prostitute in Toronto by the Elizabeth Fry Society for the Solicitor General Canada (Elizabeth Fry Society 1987).

1. The Effect of the Law on Service Delivery and Clientele

Most agencies contacted for this research have a streetwork or other outreach component. The reactions of their personnel to Bill C-49 are generally negative. Their views were based both on ideological grounds (e.g., the most appropriate way to deal with prostitution is to decriminalize it), and on the

grounds that the law has had a deleterious effect on the populations they try to serve.

The opinion of all streetworkers interviewed was that the law had made their work more difficult. Their reasons were twofold:

- Prostitutes are more "difficult to reach" and "hesitant" when contacted by streetworkers. They fear that the worker may be an undercover officer. They also are less inclined to trust social services, and are "less open and more secretive" because of the law and its enforcement.

- There is now less opportunity to meet prostitutes because the law has caused them to disperse from traditional areas, move more from city to city and go "underground." Several persons expressed the belief that prostitutes had moved off-street, to locations out of reach of social services.

In the same vein, some respondents noted that bail and probation conditions – area restrictions and curfews – were making it difficult to reach prostitutes. The agency itself may be located in an area within the boundaries that the court has ordered the prostitute to stay out of. (Most agencies are located in or near the downtown prostitution strolls.) Court orders are also believed to have increased movement of prostitutes to new areas of the city.

There were several other effects on service delivery noted. One worker in an outreach service believed that the law had pushed the "more resourceful" prostitutes to other environments, leaving the more disturbed on the streets. In this minority opinion, the group who remain require more intensive counselling services than did street prostitutes previously.

Another respondent observed that youths who drop in at the facility now need more supportive counselling as a result of the communicating charges they

face. The middle class young person is upset at being charged, while on others the effect of criminal justice system involvement is to diminish already low self-esteem.

Only one agency had added a program component – legal services and advice – as a result of the law. Other changes in program delivery that had occurred since C-49 were said to be independent of the law.

Several agency personnel noted that their prostitute clients had changed since the law's proclamation, although not all were certain that the change resulted directly from the communicating legislation. There were now fewer young girls and women being contacted on the street and seen in offices. The law has pushed them "underground": the "runaways are hiding better" and "learning how to protect their pimps" in a way that had not occurred pre-law. No corresponding change had been noticed in the numbers of male prostitutes seen by agency personnel.

2. The Effect of the Law on Street Prostitution

Agency staff believe that the effect of Bill C-49 has been far-ranging in nature. They commented that the vigorous enforcement of the law by the Toronto police has locked the street prostitute into a cycle of arrests, lawyers, convictions, and fines and/or imprisonment – all of which require that they return to the street to make money.

Sentences received by prostitutes and johns are criticized on the grounds of differential severity: while customers are discharged, the prostitutes are given criminal records and often imprisoned. As prostitutes are well aware of the differences in sentencing, they receive a "double message" – soliciting is a crime

for them, but not for their customers. Disrespect for the justice system is increased by the belief that different judges give different penalties.

Respondents also observed that prostitutes' attitudes toward society and police have hardened as a result of the law. Prostitutes fear service providers because they are now more easily identified as prostitutes: in particular, women with children are afraid that their children will be removed by the Children's Aid Society both because of their occupation and their criminal justice involvement.

For a variety of reasons, the street is now seen as a more dangerous place to work because of C-49. Prostitutes are viewed as being more of at risk from "bad dates" and from pimps. They are also less likely to work in pairs, thereby losing one of their main protective techniques. A number of agency personnel believe that prostitutes now move more within the city and between major cities, with the result that the unfamiliar environment increases the danger of the work.

> (T)he women thus cannot afford to be as selective with 'dates'. Therefore, more work is conducted in the home or in costly motel rooms. Others are left to work in dark alleys or out of the way streets which offer no protection. More women who are working for themselves have returned to pimp-run operations (including massage parlours and escort services) and biker clubs for protection and financial help in arrests.
>
> Elizabeth Fry Society 1987: 17

The Elizabeth Fry report emphasizes the financial effects of the law on the prostitute. Not only are there fewer customers, but also the frequency of arrests and resulting incarceration means that accommodation and belongings may be lost. As few women receive legal aid assistance, the lawyers' fees are a major expense. "Upon return to the street after incarceration they then must completely re-establish themselves which requires that they work longer hours and take

greater risks" (*Ibid.*: 16).

In summary, according to agency personnel, Bill C-49 has produced greater post-law "turmoil" in the street prostitution scene, the further alienation of prostitutes from care-givers and mainstream society, and greater entrenchment in a criminal subculture.

C. THE COMMUNITY

Prior to Bill C-49, there had been complaints to civic officials, and several public meetings were held on the issue of street prostitution, but there was no organized community response to the problem in Toronto. Submissions to city council mention the concentration of prostitution in fairly small areas, the related criminal activity that accompanies prostitution, and the "nuisance problems" (Fleischman 1984: 62-3). In a column supporting C-49, a *Globe and Mail* writer lists some of the grievances of communities affected by street prostitution:

> The right to enjoy one's private property ... is deeply rooted in the common law. And it is a right sorely offended by street solicitation which, although it occurs in a public place (on a street corner or a road), prevent residents from fully enjoying their own private property.
>
> When residents fear for their safety, when women are reluctant to leave their homes at night, when noise and commotion clutter the neighbourhood, when property values are diminished by street solicitation ... then the right to the enjoyment of property is curtailed.
>
> In addition, as Jane Jacobs instructed a generation of urban planners, neighbourhoods make cities safe, clean and prosperous. Destroying neighbourhoods, whether through apartment blocks or solicitation, wounds cities.
>
> *Globe and Mail*, 11 October 1985, p. 6

We first present an overview of the response of the community to the communicating legislation, followed by a discussion of the results of a small-scale survey of activist citizens affiliated with community groups lobbying for a reduction in street soliciting in residential neighbourhoods.

1. Community Reactions in 1986-87

This section provides a summary of the response of the community – largely citizens residing in the areas affected by street prostitution – to the first two years of Bill C-49. This overview illustrates both the growing disenchantment with the legislation and the increased activism of citizens. The information reported in this section was obtained from interviews with spokespersons for citizens' groups and from articles in the print media.

Sporadic newspaper reports in the first months of 1986 suggested that citizens were initially pleased with the apparent effect of Bill C-49 on their neighbourhoods: *Toronto Sun*, "Hookers were gone in a wink!" (23 January 1986); *Globe and Mail*, "Tough new law on soliciting drives prostitutes off streets" (1 May 1986). Both articles quoted residents who reported that soliciting was reduced in the downtown and Queen Street areas.

By August 1986 dissatisfaction was being reported by the media. A city councillor for Queen Street complained that "prostitutes are moving back into Parkdale and it's because the courts aren't enforcing the anti-soliciting law ... . There are new girls coming into my area and they just laugh at us" (*Toronto Star*, "Rid Parkdale of its prostitutes alderman tells attorney-general," 14 August 1986). Residents of Pembroke Street in Track I complained of the traffic, noise and violence associated with the continued presence of street prostitution (*Toronto Star*, 10 September 1986). At this time, several community meetings were held to

discuss the issue with city councillors serving the downtown track.

In September 1986 complaints of citizens and motel owners on the Lakeshore Boulevard West track resulted in the formation of a "task force on prostitution," a move that was supported by Etobicoke City Council (the police operation, Project Spinner, see Chapter III). In the same month, a meeting was held, with community groups and city councillors serving the affected areas of the downtown core in attendance. The topics discussed included sentencing by the courts, the possibility of city-initiated legislation, the experience with the law in Vancouver, and the Amsterdam situation. Participants also discussed hiring off-duty police officers to patrol affected streets and the designation of an isolated area of the city for street prostitution. It was decided that residents would ask the Police Commission for increased foot patrols, a prostitution division of the Morality Bureau, and police storefront operations.

As a result of this public and political concern, in November 1986 the Toronto Board of Police Commissioners held a public meeting on the issue at Toronto City Hall. A newly formed umbrella group (Residents for Safe Neighbourhoods) composed of six neighbourhood associations made a presentation, and according to the *Toronto Star*:

> Fear and anger were written on the faces of more than 150 people at an emotion-packed hearing on prostitution held by the Metro Police Commission last night.
>
> Residents and business people in areas plagued by prostitutes pleaded with police for a clean-up of the problem, including increased fines for johns and prostitutes and more police foot patrols.
>
> *Toronto Star*, 7 November 1986

As a result of this meeting, the police decided that closer liaison with the community was desirable and formed a Police-Community Committee on

Prostitution; spokespersons for community groups and senior police officers were members. In addition, the Board of Police Commissioners supported the hiring of 90 foot patrol officers to walk the beat in the areas affected by street prostitution.

In late 1986 downtown and Lakeshore community representatives assisted in the preparation of the Crown's submission to Provincial Court Judge Bernhard, who was deciding whether the communicating law was a justified "reasonable limit" on the right to freedom of expression. In July 1987 Judge Bernhard reversed her earlier decision and found the law constitutional; her decision was partly based on the evidence of area citizens of the nuisances and other problems generated by street solicitation.

The activities of the community groups intensified in 1987, particularly in the last six months of the year.

In November 1987 community spokespersons made another submission to the Metro Toronto Board of Commissioners – this time in camera at the delegation's request, because of fears of retaliation by prostitutes. Supported by a city councillor for the downtown area, the community groups requested that the police agree to a red light district or a "zone of tolerance" for street prostitution. This request was refused by the Chief of Police on the grounds that the police cannot be seen to condone an offence. The community spokespersons expressed support for police efforts in their attempt to control prostitution, but argued that the problem had not subsided during the summer of 1987, either in the downtown area or on Queen Street West. They also supported the official police request that Bill C-49 be amended by the federal government.[2]

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[2]The suggested police amendments included making the offence hybrid in order that the prostitutes can be fingerprinted and photographed, minimum

In the same month, the South of Carlton Community Association, whose membership was primarily residents of Seaton, Ontario and adjacent streets in Track I, took to the streets in organized demonstrations. On one occasion, they blocked traffic for two hours. In addition to protest rallies, residents in the same area organized "hooker patrols," or "walkabouts" as they are also called. In groups of two to four, often wearing white sweatshirts with a red circle with a slash across the image of a woman leaning over a car, association members took photographs of customers, shone flashlights on the drivers of cruising cars, and recorded licence plate numbers. They also asked prostitutes who worked on their streets to move and, if the prostitutes refused, the residents stood near the prostitutes and harassed any customers who attempted to speak to them. Residents report that most prostitutes were cooperative and moved when asked; there has been only one "confrontation" between residents and prostitutes since the demonstrations began. These activities continued from time to time during the winter of 1987-88. In the spring of 1988, an association spokesperson announced that members will take videos of customers and will offer those tapes to local television stations.

In December 1987 the South of Carlton Community Association moved their attention to the courts. After the police sweep of 442 customers in November, community residents prepared victim impact statements that were presented to the court hearing the customers' charges. Several residents testified. At the suggestion of residents, about 20 men were ordered to do community service under the supervision of the South of Carlton Association (i.e., to clean

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penalties (including incarceration for a third conviction), and changes that would empower police to charge on "reasonable and probable grounds" that the offence is being committed – thereby enabling uniformed officers to lay the charges without the use of undercover decoys.

up prostitution-related litter, such as condoms). Some customers who were unable to do the community service were ordered to donate money to the association to assist in the clean-up of the neighbourhood (e.g., to buy cleaning equipment). There was considerable publicity surrounding this decision by Provincial Court Judge DiCecco.

Other efforts by community (particularly in the Track I area) were ongoing throughout 1986 and 1987. These included:

- Persistent lobbying of municipal, provincial and federal elected officials[3] on various aspects of Bill C-49 and its implementation, including amendments to the law, increased penalties for prostitutes and customers, and (municipally) introducing various environmental design features to deter prostitutes and customers (such as the altered traffic patterns discussed below).

- Particularly in the Track I area, community groups were successful in obtaining better street lighting, and altered traffic patterns to prevent customers from circling the track areas and to make it difficult for cars to access some strolls.

- Licence numbers of potential customers were recorded and distributed to the police.

- Continued discussions with the police and politicians with regard to the creation of a red light district in a non-residential area.

2. Citizen Opinions on the Law in 1988

In addition to interviews with key spokespersons for several community groups, this research conducted a limited survey of citizens via mailed questionnaire. This citizen survey was not a random sample of citizens in neighbourhoods in areas with street prostitution, nor was it intended to be. Rather,

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[3]The downtown area had a federal cabinet minister as its MP and the Attorney General of Ontario as its MPP.

its purpose was to ascertain the views of the most vocal members of the community with regard to the extent of the "nuisance" problems surrounding street prostitution, other effects of street prostitution, and the implementation of the law by the police and the courts.

Therefore, on the grounds that the law was originally designed to quell the concerns and problems of the activist citizens, the survey deliberately focused on this group.

From the preceding discussion of community activities, it is apparent that many citizens were dissatisfied about the continuing presence of prostitutes on their streets. The survey was intended to discover precisely where their dissatisfaction lay.

Survey Results: The Sample

Despite the unorthodox manner of sample selection (see Chapter II), the respondents appear to represent the "activist" citizen in areas affected by street prostitution. Nine out of 10 respondents said that prostitution was a problem in their area. Three-quarters had taken some action with regard to prostitution, such as calling the police, attending a meeting or writing a politician. One-third had joined an organized campaign against street prostitution. Almost every respondent said that in the past six months, prostitutes had been working in their immediate area and/or on their own street.

Survey Results: The Effects of Street Prostitution on the Community in the Past Six Months

We were interested in citizens' perceptions of the nature of the "nuisance factors" and the frequency with which they had encountered them in the six

months prior to the survey (conducted January-February 1988).

The most frequently mentioned "nuisance factor" (by 8 out of 10 respondents) was the presence of litter left by prostitutes and their customers; more than one-half of the sample reported that they found litter such as condoms, needles and tampons once a month or more (i.e., six or more times in the preceding six months). Two-thirds of the respondents reported being inconvenienced by the traffic associated with street prostitution; slightly more than 40 per cent said traffic had bothered them once a month or more. Slightly more than one-half had been accosted by a prostitute or a customer, or been kept awake by the noise from prostitutes, their pimps and the johns; one-fifth to one-quarter said these situations had occurred six or more times in the past six months. Almost one out of three respondents said that they personally had been bothered by pimps: threatened or verbally abused, or had observed violence by pimps. Other experiences included finding evidence of sexual activity on their property, and defecation or urination on property.

About one-half of respondents knew persons who had moved away from the area specifically because of prostitution. Almost two-thirds believed that property values had been affected (downward).

Survey Results: Changes in the Number of Prostitutes

One-half of respondents living or working in Track I reported a decrease in the numbers of prostitutes working in their area; one-quarter believed there had been no change; one-quarter believed there had been an increase since Bill C-49 was passed in December 1985. In the three other areas,[4] one-half believed there

[4]Unfortunately, only a total of 16 respondents returned questionnaires from Track II, Queen Street and Lakeshore areas.

had been an increase in numbers.

An examination of the precise location of respondents in Track I who believed there had been a decrease showed that many of these persons lived on or near the streets which *have shown a reduction in the number of "working girls"* (primarily the Church Street and Homewood area). People's observations are often based on a fairly limited perspective: if one's own corner is less busy, there may be a tendency to see the overall number as having decreased.

Survey Results: Satisfaction with the Law's Implementation and the Law Itself

Attitudes to police enforcement, the performance of the courts, the deterrence of prostitutes and customers, and the overall effectiveness of the law are described in this section.

Despite the best efforts of police to publicize their charging activities and to liaise with community groups, the views toward police enforcement policies were often unfavourable. Only one-quarter of the survey respondents believed that the police had spent "about the right amount of time" on enforcing the legislation; the majority (about three-fifths) said they had not spent enough time; and, a small group (about one-tenth of the total) said that the police had spent too much time in enforcement.

The sample was equally divided in their satisfaction with police enforcement: two-fifths expressed dissatisfaction, and almost the same proportion were satisfied with the police handling of street prostitution.

These are some of the comments on police enforcement supplied by citizens:

- "The police haven't spent enough time on enforcement, particularly in pursuit of johns and pimps."
- "The police are very reluctant to pose as decoys to arrest male prostitutes or customers."
- "The police are apathetic. They use the excuse that prostitutes are useful in providing tips in solving other crimes. The promised foot patrols are non-existent."
- "No satisfactory law enforcement. Police do not bother pimps or prostitutes."
- "I have not noticed the police taking a strong stance on this issue."
- "Police can now arrest the johns. However, they rarely attempt to."

Although the minutes of the police-community meetings indicate that many of the community members in attendance do not fault the police with regard to enforcement, this support has not necessarily filtered down to the "grass roots" concerned citizen. Certainly, the inaccuracy of some perceptions (e.g., in terms of charging customers) suggests that additional public educational efforts may be required.

The courts received more criticism than the police, with approximately one-half of the respondents being dissatisfied with the sentences being given prostitutes and customers, and only one-tenth being satisfied. A slight majority of respondents also viewed the law as having "no" or "very little" deterrent effect on prostitutes and their customers.

Views of the courts include:

- "The courts are a farce. Prostitutes and johns are given suspended sentences or nominal fines only."

- "Prostitution got worse from 1985 to 1987. The law has no teeth. Only recently have a few judges given more than a slap on the wrist. Fines, etc. have been too lax."

- "The law has no effect if not *enforced.* Penalties for johns are not stiff enough as being a john is not considered a serious offence. Therefore, they are not deterred."

- "The courts must support the police with stiffer sentences. Prostitutes, both male and female, return to the streets."

Not surprisingly, a summary question on the overall effectiveness of the law brought an "ineffective" response from two-thirds of those surveyed. One-fifth believed that the law has been "effective."

The following are some of the comments offered by respondents:

- "I don't think that the politicians are gutsy enough to legalize it or license prostitutes. My main concern is to get them out of residential neighbourhoods and eliminate the pimps."

- "Frankly, the new law is a farce. I should also not be surprised if it was the policy of the authorities to confine prostitution to certain controllable areas of the city – namely, where I live."

- "I don't like the fact that police officers have to use entrapment. They should not have to dress up as hookers to prove communication. Let's re-enact loitering and vagrancy laws so these people can be moved off the streets."

- "Legalize prostitution and get it off our streets."

- "I strongly sympathize with residents in neighbouring areas who have taken matters into their own hands and picketed prostitutes and johns, and I would personally support and participate in such actions."

- "There should be a legalized, restricted, controlled area for prostitutes to operate within – a red light district in a commercial or industrial area. Get it out of our residential neighbourhoods! It is an

inevitability. Let's be a little more sophisticated about it and *control* it rather than trying to eradicate it (impossible)."

- "Your survey hasn't addressed the problem of prostitution itself, of young people from broken homes being victimized by pimps and indirectly by johns. The government should concentrate on the human tragedy of prostitution at least as much as trying to protect residents from the effects of this social blight."

- "Scrap the new law – put an enforceable law in. Legalize brothels so they can become taxpaying, contributing members of society and (give) heavy penalties for street prostitutes. Would create a safer situation for all."

- "Help."

- "Please put some bite into new laws against the prostitutes and their customers. Repeat offenders should be jailed and the keys thrown away. They are parasites."

- "The law is an ass in this case. A legal zone would help to keep prostitution out of residential neighbourhoods."

- "Prostitution is a service. It needs to be legalized and regulated.
- Legalize it and leave them alone."

- "It's totally outrageous that residents have to go to the lengths they are forced to, by ineffective federal politicians, to protect themselves and their streets from the noise, intimidation, foul behaviour and threats of violence visited on the residents by hookers, pimps and johns."

- "Legalize and control prostitution! Give the girls their own safe, controlled areas."

The following comments represent exceptions to the general tone:

- "I have lived in this area since my childhood, with brief periods away, and so I am not as troubled by the situation as those unfamiliar with it might be. I have only been approached twice in that time and could deal with both situations."

- "Something like this (prostitution) is a difficult matter to discuss, having children, but it is good experience for them to see what kind of a life not to get into."

- "I do not like the new law. Decriminalize prostitution."

3. Discussion

Because the community groups lobbying for an end to prostitution in residential areas do not maintain formal memberships, there is no information on the number of Toronto citizens who are active members or supporters of these groups. Estimates suggest that the number of active participants is fewer than 500, and probably considerably less. Without a random sample of residents and other citizens, there is no way of knowing how representative the survey results reported above are of the total population of the "prostitution areas."[5]

Many of the activist citizens in the Track I area reside on the non-commercial streets that have been most affected by prostitution in the past two years. Prostitutes work on their streets, or at the corners of their streets – sometimes directly in front of their homes. Many members of community groups own their own homes, which are often recently renovated older buildings in the "Cabbagetown" and mid-town areas of central Toronto.

We can speculate that the experiences of these citizens with regard to prostitution may be quite different from the experiences of persons who live in the highrise apartments in the area or those who live on streets not directly affected by prostitution. For example, the highrise dweller may be less susceptible

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[5]According to 1981 census data, there are about 37,000 persons and 22,000 households in the Track I area. In Queen Street West, there are approximately 13,000 persons and 4,500 households within one block of the track.

to the nuisances caused by street activity, traffic and litter than is the person who lives in a house or a lowrise apartment. Moreover, the citizen who lives (or works) on a street not frequented by prostitutes may not even be aware of the activity taking place within a block or two.

As some of the comments from the citizen survey indicate, many concerned citizens believe that prostitution cannot be eliminated, wanting only that the problem be relocated out of *their* (and presumably other) residential neighbourhoods – hence, their recent efforts to have the city politicians and police agree to establishing an informal red light district in a non-residential area.

Finally, there is another group opposing Bill C-49 – prostitutes' rights organizations. This group is not made up of as many citizens nor is it as politically influential as those groups lobbying for the removal of prostitutes from residential areas. (While the women's movement has criticized the law, there is no local organization to counter the attempts to toughen s. 195.1, so far as we are aware.) Although prostitutes' rights organizations (which in Toronto are entirely or almost entirely made up of prostitutes who work off-street) acknowledge that street soliciting in residential areas sometimes creates problems for residents, these organizations advocate decriminalization of prostitution, not legalization or red light districts.

CHAPTER VIII:
OTTAWA, NIAGARA FALLS AND LONDON

The federal Department of Justice selected three additional study sites in Ontario for purposes of comparison with the situation in Toronto. In addition, local citizens and police in Ottawa, Niagara Falls and London believed that they had significant problems with street solicitation in the years before Bill C-49 was passed. This research therefore inquired into the extent to which the anti-soliciting legislation has remedied the problems.

The focus of this chapter is on the implementation of the legislation by the criminal justice system in the three cities. Less emphasis is placed on the impact of s. 195.1 on the "sex for sale" business and on the changes in the sex trade observed to have occurred since Bill C-49. Most respondents in the three cities were representatives of the criminal justice system, particularly the police. Other than in Ottawa, primary data collection on case processing of persons charged under s. 195.1 was not undertaken; fortunately, the police force in each city was able to provide us with information on the number of charges, and the sentences imposed by the courts.

A. OTTAWA

Members of the Ottawa Police Force, a Crown attorney, a member of the defence bar, social agency staff and a municipal official were interviewed for the Ottawa component of this research.

In addition, the principal investigator coded data on a random sample of 1986 and 1987 charges under s. 195.1. Using the same data collection methods as in Toronto, information on the characteristics and court processes of 60 prostitutes and 27 customers was obtained. This information was supplemented by Ottawa police data on the type of sentences received by all persons charged under s. 195.1 for the first 22 months of the law.

There is some information available on the pre-law situation in Ottawa. Ottawa police officers interviewed by Fleischman estimated that in 1984, 50 to 75 female prostitutes worked the Ottawa streets. Retrospective perceptions of officers interviewed for this research suggest that in the summer of 1985, at any one time there were about 25 women working. There was a general consensus that prior to the legislation, male prostitution was much less noticeable than female prostitution, but approximately five to seven males could be seen at any one time.

For more than a century, the Byward Market has been the area for female street prostitution in Ottawa. Although there has been a minor shift in the streets worked since the law came into effect, the market remains the sole female stroll in Ottawa.[1] There are two male prostitution areas. Hustlers work on Mackenzie Drive and in the park of the same name behind the Chateau Laurier hotel, as well as on the footpaths beside the Rideau Canal. The latter venue has been a traditional area of homosexual cruising – some of which may involve the exchange of money.

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[1]However, in the spring of 1988 some women were observed to be working on Bank Street, some distance from the Market.

1. Implementation by Police

A nine-officer enforcement unit, whose other responsibilities include pornography and drinking laws, enforces the anti-soliciting legislation in Ottawa. Officers from the uniformed branch are used to deter customers by their enforcement of the *Highway Traffic Act* (e.g., seatbelts) and impaired driving laws. Uniformed personnel in cruisers and on foot are used to keep track of new faces working the streets, and to ensure that no prostitutes are violating court-ordered area restrictions. Plainclothes personnel indicate that uniformed officers have more contact with street prostitutes than do members of the enforcement unit, because of the need to keep the identity of the latter undercover.

No policewomen are on the enforcement unit. On one occasion, a uniformed policewoman has acted as a prostitute decoy.

Almost all charges laid under s. 195.1 in Ottawa have involved ss. (c), the "communication" section; however, early in 1986 a few charges under ss. (a) were laid.

The enforcement unit undertakes regular enforcement, with their routine efforts supplemented by larger scale actions when personnel are available, and when observations suggest that the number of prostitutes working the market has increased.

There are two street-level methods of implementing Bill C-49 in Ottawa. The first method is similar to that used in Toronto and elsewhere. An undercover officer acting as a customer stops his car near a prostitute. After she has solicited him – named her price for a sex act – the officer to whom she has spoken rejects her offer and drives away, signalling to officers in a back-up vehicle who

inform her she is charged. By employing back-up officers to lay the charge, newer members of the squad can remain unknown to the prostitute and her working companions.[2]

Because policewomen have been used to a limited degree in Ottawa, another method – termed the "surveillance" method – has been adopted to charge customers (as well as prostitutes). In consultation with the Crown, it was established that there is no need for police officers to be one part of the conversation, as long as there is sufficient circumstantial evidence to suggest that communication has occurred.

The surveillance method involves undercover officers observing prostitutes who work the stroll and establishing by their behaviour that they are "known prostitutes" (e.g., by talking to a series of men who stop their cars nearby). The evidence used to indicate that a man is a john includes: frequent stops in the market area and approaching more than one prostitute. When a customer picks up a prostitute, officers follow them in an unmarked car. If the police catch the couple in the sex act, no statements are required and both are charged. If police do not observe the sex act, the officers stop the customer's car, separate the customer and prostitute, and ask them to make a statement. The statement is either verbal (i.e., made when stopped) or formal (made at the police station). If the customer refuses to make a statement on the contents of the communication, he is cautioned and taken to police headquarters to telephone a lawyer. Officers report that in most cases the customer does make an inculpatory statement, but even if he does not, a communicating charge is usually laid on the basis of the other evidence. Most often, the customer's evidence is used to charge both

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[2]However, officers indicate that all members of the unit sooner or later become known to regulars in the market.

customer and prostitute. (Not unexpectedly, prostitutes are less willing than customers to make a statement.)

When possible, police "show cause" prostitutes in order to request area restrictions from the court. According to the sample of records coded for this study, about three-fifths of prostitutes were detained for a bail hearing, about one-quarter were released on a promise to appear, and one-tenth released on a recognizance before an officer in charge with a surety or cash deposit. The reasons for the police decision to detain prostitutes are known in about 60 per cent of the sample cases and include: from out of town, no identification or no fixed address (two-fifths of the total), prior failure to attend court or outstanding bench warrants (one-quarter), and prior charges (about one-fifth).

All "show caused" prostitutes were released by the court so that none was detained for more than two days. Police appeared to be successful in obtaining the bail conditions they requested: almost all (97 per cent) prostitutes had an area restriction as a condition of bail; two-thirds were to reside at a specific location; and one-quarter were given a curfew.

No customers were detained by the police; two-thirds were released on a promise to appear and the remainder were released on a recognizance.

Ottawa police respondents indicate that most prostitutes take minimal counter-measures to avoid being charged, although many do ask if the customer is an officer. In the summer of 1987, however, officers noted that more women asked officers to expose themselves, to touch them (the officer's genitals), or to be touched (breasts). Police remarked that these techniques were easily verbally countered by remarks such as "is this show and tell time?"

The implementation of the anti-soliciting law has required little organizational change, although a senior officer reported that the addition of two officers to the enforcement unit was "partly attributable" to the legislation. In Ottawa, no large additional resources have been required to enforce s. 195.1.

2. Implementation by Crown and Defence

The relationship between the police and the Crown with regard to s. 195.1 has been cooperative and close, according to police and a Crown attorney interviewed. The Crown advised police that ss. (a) and (b) presented more difficult evidentiary requirements than (c), and the police should focus on "communication." In the view of the Crown, the law has been successfully implemented by the criminal justice system in Ottawa. A potential problem with Bill C-49 may be its constitutional validity. In August 1985 an Ottawa Provincial Court judge ruled that the law was constitutional, and his decision was followed by a District Court judge. Again appealed by defence, this case (*Bailey*) is at the Ontario Court of Appeal in the spring of 1988.

From the perspective of the defence lawyer interviewed, the law permits little scope for legal argument. Therefore, a successful defence, of which there have been few in Ottawa, depends on the facts of the case. The amended s. 195.1, according to this lawyer, provides defence "nothing to bargain with." This respondent observed that when the police first started show causing prostitutes to obtain area restrictions, prostitutes wanted to plead guilty at the first opportunity. However, when the Crown started asking for probation at sentencing, prostitutes stopped "pleading out" at their bail hearings. Also in his view, the police stretch the limits of the law by their enforcement practices and lay charges even when evidence is lacking.

3. Charges, Characteristics of Accused Persons, and Case Outcomes

Data sources for the information in this section include the sample of police file data coded for this study and data made available by the Ottawa Police on the conviction rates and sentences on all persons charged between January 1986 and October 1987.

As Table VIII.1 shows, more than 300 charges under s. 195.1 were laid in the first 22 months of the legislation. Three-quarters of the accused were prostitutes, and there was a slight change over time. In 1986 one-third of charges involved customers, but in the second year the proportion had dropped to about one-fifth. Enforcement as a whole intensified in the second year of the law, however. In all of 1986, 126 charges were laid whereas in the first 10 months of 1987, police laid 188 charges.

This section now presents the data on the social characteristics of accused and their criminal justice processes.

TABLE VIII.1

CHARGES UNDER S. 195.1: OTTAWA POLICE STATISTICS, 1986-1987

	1986	1987 (Jan.-Oct.) (percentages)	Total
Prostitute	66.7	79.3	74.2
Customer	33.3	20.7	25.8
Total per cent	100.0	100.0	100.0
Total number	126	188	314

Source: Ottawa Police Force

Prostitutes

Ten male prostitutes were charged by Ottawa police in 1986-87 (4 per cent of all prostitutes charged). Three-quarters of prostitutes were 24 years old or younger. Only 2 per cent were 34 years of age or more, with the oldest prostitute being 39 years. According to interviews with police, there is no large problem with young offender prostitution in the city, and statistics confirm this perception. Only 7 per cent of the 233 prostitutes charged were 17 years old or younger.

Approximately four-fifths of prostitutes were Caucasian. No other information on the sociodemographic characteristics of prostitutes was available.

One-quarter of prostitutes had more than one charge currently being processed by the court. In most cases, the non-soliciting charge was a violation of a court order, such as a violation of bail or failure to attend court.

Compared to Toronto prostitutes, those in Ottawa had lengthy court processes: only one-tenth had one or two hearings, and one-half had five or more appearances. Most prostitutes (83 per cent) had retained counsel. Interviews indicated that, unlike Toronto, legal aid was often provided to prostitutes in Ottawa, so we can speculate that many represented prostitutes were on legal aid certificates. It is possible that the legal aid process lengthened the court process for Ottawa prostitutes – adjournments are usually necessary to obtain a certificate.

As in Toronto, bench warrants resulting from a failure to attend court were common, with about one-half of the prostitute sample failing to attend court at least once. According to official statistics, slightly less than one-fifth (18 per cent) of prostitute cases ended because the prostitute was not found and the bench

warrant could not be served. This proportion is similar to that found in Toronto (14 per cent).

Slightly more than three-fifths of the sample pleaded guilty to the s. 195.1 offence, and a final plea of not guilty was made by 17 per cent. Ottawa prostitutes were no more successful in obtaining a not guilty verdict than were those in Toronto: only 2 per cent had their case dismissed or were found not guilty. Four-fifths of the total were convicted, and about one-fifth (18 per cent) had the charge withdrawn.

There appeared to be a change in the sentencing of prostitutes between 1986 and 1987 (Table VIII.2). Prostitutes were more likely to receive custody in the second than in the first year of the law (22 per cent versus 7 per cent). Whether this difference is because prostitutes had accumulated additional charges in the interim is not known.[3]

Over the entire 22 months for which information is available, no prostitute received an absolute discharge; 4 per cent were discharged conditionally; about one-half were fined; about 30 per cent received a suspended sentence and/or probation; and 16 per cent were imprisoned. (Compared with Toronto prostitutes, fewer received discharges and more were fined, with a similar proportion receiving custody.) The amount of the fines was almost identical to the amounts in Toronto; more than three-quarters were fined $100 or less and only about one-tenth (13 per cent) were required to pay $200 or more. Custodial sentences ranged from 1 to 90 days.

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[3]Data on prior record were not routinely available in the police files accessed for this research.

TABLE VIII.2

TYPE OF SENTENCE RECEIVED, BY YEAR: OTTAWA POLICE STATISTICS ON PROSTITUTES

	1986	1987 (Jan.-Oct.) (percentages)	Total
Absolute discharge	-	-	-
Conditional discharge	2.3	5.1	3.9
Fine	55.8	44.1	49.0
Suspended sentence, probation	34.9	28.8	31.4
Custody	7.0	22.0	15.7
Total per cent	100.0	100.0	100.0
Total number	43	59	102

Customers

Ottawa customers ranged in age from 17 to 69 years; about one-half were 34 years or younger and about one-fifth were 45 years or more. No customers of male prostitutes were charged in Ottawa.

All customers in the sample had only one charge arising out of the soliciting incident. The majority (61 per cent) had one or two hearings – much shorter court processes than the prostitutes. Two-thirds of johns had retained a lawyer to defend them. Three-quarters pleaded guilty, and less than one-tenth pleaded not guilty.

Ottawa police data on customer conviction rates show that they rose between 1986 and 1987 (from 66 per cent to 89 per cent). When the years are combined, the conviction rate of customers was similar to that of prostitutes: 75 per cent of johns were convicted, one-fifth had the s. 195.1 offence withdrawn, and only 4 per cent were found not guilty or had the case dismissed.

Customers received less severe sentences than did prostitutes. About 45 per cent of customers received an absolute or conditional discharge (versus 4 per cent of prostitutes), 54 per cent were fined, and 2 per cent received a suspended sentence. No customer was sentenced to custody in Ottawa. Customers received similar or even lower fines than did prostitutes. We were unable to determine the extent to which this difference in sentencing arose from "legal" factors, such as prior record or multiple current charges.

TABLE VIII.3

TYPE OF SENTENCE RECEIVED, BY YEAR: OTTAWA POLICE STATISTICS ON CUSTOMERS

	1986	1987 (Jan.-Oct.) (percentages)	Total
Absolute discharge	33.3	28.0	30.8
Conditional discharge	11.1	16.0	13.5
Fine	51.9	56.0	53.8
Suspended sentence, probation	3.7	-	1.9
Custody	-	-	-
Total per cent	100.0	100.0	100.0
Total number	27	25	52

4. Changes in the Practice of Prostitution

Police estimate that in 1987 there were about 100 female street prostitutes in Ottawa with 50 being local women from the Ottawa area. All police respondents observed that there had been a large reduction (between 40 per cent and 75 per cent) in the number of street prostitutes. At the most, there were five to seven women at any one time in the market in the winter of 1987-88; in the summer of 1987, there were approximately 10 to 12. Even in the summer of 1986, officers suggested that there were as many as 20 to 25 working at one time; the drop between 1986 and 1987 was attributed to police enforcement.

Although agreeing that female street prostitution had become less visible, social agency staff believed that the total number of prostitutes had remained about the same in recent years. In their view, many women had started to work off-street locations such as bars, or out of their own homes, or were still on the street but outside the market.

Police and social agency respondents agreed that women prostitutes had become more mobile since the law, although the Ottawa-Montreal-Toronto "triangle" has always existed, movement among these cities has increased since the law. There was also agreement that there had been displacement from the street to escort agencies, and that some women may now rely on regulars to avoid police.

Other than these displacement effects, few changes in the street prostitution business had been observed by police. In their view, the law had had no negative impact on the street trade, except perhaps to reduce the income of street prostitutes. In the perception of agency staff, the law, police enforcement and boundary restrictions have made it more difficult for the agencies to reach

prostitutes. However, other than the problems resulting from criminal justice system involvement (the need to pay fines, serving time, etc.), the street outreach personnel interviewed saw no major repercussions for the women; police activity may have made the women more apprehensive, but has not discouraged them from working.

A municipal official interviewed for this study observed that the law has been effective in reducing the visibility of women on the streets. Complaints from businesses and residents have decreased. Although satisfied with police enforcement of the legislation, he commented that the legislation was "not strong enough" because continuous enforcement was required to maintain a reduction in numbers.

In Ottawa, a possibly confounding factor in assessing the impact of the law on the amount of street solicitation is a highly publicized case of a woman prostitute who carried the AIDS virus. With two exceptions, however, respondents did not believe that the threat of contracting AIDS had contributed to changes in the number of prostitutes or customers.

Most respondents believed that the threat of being charged had not appreciably deterred customers, although one officer remarked that the encounter with the police and the courts undoubtedly deterred those customers who had been caught.

B. NIAGARA FALLS

Five police officers from the Niagara Regional Police Force and a municipal politician were interviewed in early 1988 with regard to the impact of

the anti-soliciting legislation in Niagara Falls. The police provided details on the charges and court outcomes of all persons charged under s. 195.1 between January 1986 and September 1987.

There was a great deal of publicity with regard to street solicitation in Niagara Falls before the passage of Bill C-49. Large numbers of women worked the streets in this community with a largely tourist-based economy. Although "the Falls" (as the city is known locally) has for many years been a centre of street prostitution, by the early 1980s, many local citizens considered it to be a major problem. According to one police respondent, the problem reached its peak in the summer of 1984 – at that time, street solicitation was "completely out of control." Police informants cited by Fleischman (1984: 71) estimated that there were up to 100 women working the streets in the summer, and about 20 in the winter. Police reported that about 80 per cent of the women came from the United States (Buffalo and Niagara Falls, N.Y.). A November 1985 local newspaper article indicated that the problem still existed immediately prior to C-49: about 12 prostitutes were counted on a Saturday night in that month, and "about 80 on one night last summer."

In 1984 some prostitutes worked near one of the major bridges between the United States and Canada. By the summer of 1985, street prostitutes were located outside the main tourist area and worked in a four to five block area in the central business section near the city hall – an area that many tourists do not encounter because it is located about a mile from the hotels, the falls and other tourist attractions.

The local Member of Parliament and the mayor of the Falls were among the more outspoken elected representatives who lobbied for the introduction of

anti-soliciting legislation. In late 1985 both local politicians and the police viewed the passage of C-49 with enthusiasm.

1. Implementation by the Police

A four-member unit from the Niagara Regional Police Force's Operational Services section is responsible for street prostitution enforcement in Niagara Falls. The unit is also responsible for liquor, gambling and other prostitution-related offences in the Niagara region. Most of the unit's activity with regard to street solicitation is centred on the Falls, because the other cities in the Force's jurisdiction (St. Catharines and Welland) have little or no problem with on-street prostitution.

The enforcement activities of the unit are supported by beat patrol officers from Two Division (located in the Falls) who supply regular reports on their observations of the number of prostitutes working the stroll area. As is the case in other cities, uniformed officers enforce *Highway Traffic Act* provisions to discourage customers from cruising in the prostitution area.

All four members of the enforcement unit are male, but three policewomen (one from the drug squad, and two from the uniformed branch) have been used as prostitute decoys.

Procedures for charging prostitutes in the Falls are similar to those employed by Toronto police. Male police officers in rental vehicles cruise the stroll on a regular basis, and attempt to get prostitutes to name a price for a sex act. After the woman has communicated, she gets in the car and he drives as close as possible to the police station, followed by a back-up vehicle, before showing his badge and charging her. On larger scale sweeps, as many as five

officers in five different cars are used as customer decoys, and other officers are located in the station parking lot to ensure that the prostitute does not escape. A total of 20 officers may be used in these sweeps.

Once at the station, the prostitute is identified and is usually released on a recognizance or a promise to appear. Prostitutes from outside the area are released on an undertaking by a justice of the peace (who is available most evenings for hearings), pay a $250 cash deposit if U.S. citizens, and are ordered to stay out of the Falls until their court date. Prostitutes with outstanding charges are also released on an undertaking. If a woman lies about her identity, and is discovered to have done so, she is charged with "obstructing justice."

At one time, local prostitutes were given area restrictions as a condition of an undertaking. However, their response to the boundaries was to expand the stroll area, by working in more obvious locations downtown. Merchants and others complained, so that more recently area restrictions have not been requested by police.

Avoidance tactics used by prostitutes include the "touching technique" used elsewhere, as well as memorizing licence plates of rental cars, checking the contents of the car for evidence that the customer is police, and asking the potential customer if he is an officer. Several respondents noted that the small size of the enforcement team makes it difficult for them to remain anonymous to the regulars on the stroll.

When customers are targeted, a policewoman decoy stands on one of the corners of the stroll with back-up surveillance nearby. She is "wired"; that is, she has a tape recorder on her so that her conversation with the john can be heard by

back-up personnel. The body pack is for her protection and to make it easier to record the details of the conversation with the customer. (Male officers were also initially wired but the practice was discontinued because the Force found there was no difficulty in obtaining convictions without tape-recorded evidence.) Once the customer has named the sex act and a price (or asked the prices of the officer) and an agreement appears to have been made, the decoy makes some excuse not to go through with the agreement. Back-up officers approach and charge the customer, who often does not realize that the woman was a police officer. According to a policewoman interviewed, the sole precaution taken by customers to avoid being charged is to ask if she is a police officer and even that tactic has only occurred recently.

Customers are released on an appearance notice upon showing their driver's licence. U.S. citizens are required to make a $250 cash deposit.

Police report that the implementation of C-49 has not resulted in any organizational changes within the Regional Force. Rental vehicles constitute some additional costs, but this is not viewed as a major expense. Overtime costs are regarded as insignificant.

Most officers viewed the anti-soliciting legislation as "somewhat" to "very" effective, and permitted them to control the situation. Respondents recommended that s. 195.1 be made dual procedure in order that prostitutes can be fingerprinted and photographed (to ease problems with identification), and so that there is legal justification for arresting them. Some dissatisfaction with court sentencing was mentioned, and officers believed that there should be minimum penalties, with a short period of incarceration for third offences.

2. Charges and Case Outcomes

In the first 22 months of C-49 in Niagara Falls, 197 charges were laid against prostitutes and customers. In 1986, 56 per cent of the charges were laid against prostitutes and in 1987 that proportion rose to 70 per cent (Table VIII.4). Slightly more than 60 per cent of charges involved prostitutes when 1986 and 1987 data are combined.

TABLE VIII.4

CHARGES UNDER S. 195.1:
POLICE STATISTICS FOR NIAGARA FALLS, 1986-1987

	1986	1987 (Jan.-Oct.) (percentages)	Total
Prostitute	55.7	70.3	62.4
Customer	44.3	29.7	37.6
Total per cent	100.0	100.0	100.0
Total number	106	91	197

Source: Niagara Regional Police Force

Prostitutes

Except for one person, all prostitutes charged were women. As in Toronto, about 15 per cent were young offenders. Almost three-fifths (58 per cent) were between 18 and 24 years, and only 4 per cent were more than 34 years of age. The age of prostitutes ranged from 15 to 47 years.

As noted earlier, there was the widespread perception that much of the street prostitution problem in the Falls was created by the across-border mobility of U.S. women. Several respondents attributed the decrease in number of working

prostitutes to the decrease in numbers of U.S. prostitutes. In 1986 only 9 per cent of charged prostitutes were U.S. citizens and in the first 10 months of 1987, the proportion was 13 per cent. These data can be interpreted in one of two ways: either the reduction in the number of American prostitutes cannot be attributed to the law (perhaps for some reason even before the law women had stopped coming across the border to work), or after the enactment of C-49 word spread very quickly to the U.S. prostitute community that they were now liable for charges in the Falls.

Repeat offenders made up 44 per cent of the total number of prostitutes charged by the Force, and there was no difference between 1986 and 1987 in the proportion of "repeaters."

The conviction rate for prostitutes was 90 per cent; 3 per cent were found not guilty or had their charges dismissed and 7 per cent had their communicating charge withdrawn. A fine was the standard sentence for prostitutes (83 per cent) and imprisonment was relatively infrequent (11 per cent) (Table VIII.5). Fine amounts showed little variation; four-fifths were in the $200 to $300 range, and another one-tenth were $350 to $500. Of the four cities surveyed for this report, Niagara Falls offenders received the highest fines.

Customers

As in Toronto and Ottawa, approximately one-half of customers were 34 years or younger, and one-fifth were 45 years or older. The youngest john charged in the Falls was 18 years of age, and two men were 70 years old. Just less than one-quarter (23 per cent) of customers were American citizens.

TABLE VIII.5

TYPE OF SENTENCE RECEIVED BY NIAGARA FALLS PROSTITUTES

	(percentage)
Absolute discharge	-
Conditional discharge	1.5
Fine	83.1
Suspended sentence, probation	4.6
Custody	10.8
Total per cent	100.0
Total number	65

Eighty-four per cent of customers were convicted, 12 per cent were found not guilty and 4 per cent had the charge withdrawn. *Every* convicted customer was fined, and the vast majority (85 per cent) had to pay $200 to $250.

3. Changes in the Practice of Prostitution

Table VIII.6 shows the average and peak counts of street prostitutes working in downtown Niagara Falls for the period between April 1986 and December 1987. (These counts are part of the regular duties of the uniformed officers patrolling the stroll.) Monthly averages in 1986 ranged from 4 to 9 prostitutes and in 1987 from 3 to 10. Particularly in 1987, there was an increase in the average number working in the early fall. The peak counts (the largest number observed at one time in each month) ranged from 8 to 17 persons. Considering that the stroll in the Falls is located in a fairly small area with a radius of about four blocks, the peak counts illustrate that on the more active nights, the streets are well occupied. However, if the pre-law estimates are anywhere near accurate – totals of 75 or more women working at once – it is evident that the numbers are much reduced in 1986 and 1987.

A senior officer estimates that in the summer of 1987 there were about 20 women (and one or two men) regularly working the streets; in the summer of 1985 there were at least 50 regulars. All respondents agreed that the number of prostitutes visibly working the streets of the Falls has declined at least by one-half since Bill C-49 came into effect. In the view of police interviewed, the number of women from the United States who cross the border to work in the Falls has greatly diminished.

In the opinion of the respondents, the law has deterred customers that have been charged, as has the policy of some of the local news media to publicize their names. The extent to which the law, police enforcement and publication has deterred customers in general is less certain. Personal observation of the Falls stroll in a warm night in the winter of 1987-88 showed that, at least on one weekday evening, there were more cruising customers than working prostitutes.

Police had not observed any displacement of the sex business to off-street venues in the Falls. There are few "bar girls" and no escort agencies. Although there was a brief period when boundary restrictions shifted the stroll slightly, this was short-lived and the stroll is located in approximately the same area as it was in 1985.

Few officers believed that the law or its enforcement has had negative repercussions on the street business. Several remarked that there were more pimps around than in the past, but only one officer felt that the law may have pushed the business toward greater control by pimps. (Estimates of the proportion of the women in the Falls who are pimped range from 50 per cent to 100 per cent.)

TABLE VIII.6

COUNTS BY NIAGARA REGIONAL POLICE OF STREET PROSTITUTES IN NIAGARA FALLS, APRIL 1986 TO DECEMBER 1987

	Mean number of prostitutes	Peak count	Number of observations
1986			
April	9	16	13
May	7	10	8
June	5	12	15
July	4	12	31
August	5	14	16
September	6	16	26
October	7	14	25
November	6	17	22
December	4	16	20
1987			
January	4	9	33
February	5	12	26
March	3	9	22
April	3	10	20
May	3	8	16
June	5	13	22
July	6	15	15
August	5	12	23
September	10	17	17
October	6	12	20
November	5	10	20
December	4	9	17

NOTE: These counts were taken by beat patrol officers and the data were kindly made available to this research by the Niagara Regional Police. They include daytime observations, so the means therefore underestimate the average numbers working evenings.

Despite the generally optimistic view of the success of Bill C-49 in reducing street soliciting in Niagara Falls, a newspaper editorial in the summer of 1987 stated: "You can tell when it's summer in Niagara Falls – the streets are crowded with tourists – and with prostitutes" (*Niagara Falls Review*, 18 June 1987, "Will Is Not There to Treat the Problem"). In that month, about 20 residents from the downtown area asked city council to do something about the presence of prostitutes in their neighbourhood.

C. LONDON

Four members of the vice squad of the London Police Force were interviewed for this research. In addition, the Force provided details of the actor status, age, conviction rates and sentences for all charges under s. 195.1 in 1987.

Estimates suggest that in 1985 there may have been about 35 female and 12 male prostitutes working the London streets. Juvenile prostitution was more of a concern. Runaways from the area were prostituting themselves in Toronto and other cities; a joint investigation in early 1985 that involved the London Police, the OPP, and other city forces "took a lot off the streets." A senior officer noted that although some juveniles involved in Toronto prostitution originated from London, few underage girls actually worked in London.

There are two areas for street prostitution in London that are, as in other Ontario cities, differentiated by the gender of the prostitute. Female prostitutes (and one transvestite-transsexual) work in a two or three block area in the commercial business section known as the East End. For many years, male prostitutes have hustled in the central city Victoria Park. In 1984 "citizen complaints about street prostitution in London have come mainly from merchants

in the east end of the city" (Fleischman 1984: 67). Male prostitution was, and is, much less visible to local citizens.

London police laid few soliciting charges under the former s. 195.1: three in 1983, two in 1984 and one in 1985.

1. Implementation by the Police

Four officers in the London police's vice squad are responsible for implementing s. 195.1. In addition to street prostitution, the squad's other duties include offences relating to pornography, liquor offences such as "booze cans" and other prostitution activity (largely escort services). Uniformed officers are used to "move the girls on from time to time," often as a result of complaints of merchants.

Policewomen from the uniformed branch are borrowed to act as prostitute decoys. More emphasis has been placed on charging customers than on prostitutes.

Although the "communicating" subsection of 195.1 ss. (c), is most often employed by London police, in 1987 there were four charges under ss. (a), stopping or attempting to stop a motor vehicle.

Members of the vice squad undertake routine enforcement against prostitutes when their other duties permit. When action against customers is planned, a request to the uniformed branch for a policewoman is made a week or so in advance.

There are two on-street methods used by London police to enforce the anti-soliciting legislation. The first method, the most frequently employed, is to have plainclothes officers act as customer decoys. After the prostitute initiates the conversation, he or she is charged when he or she names a price for a sex act. As in Ottawa and Niagara Falls, the prostitute is driven to police station where she is charged. The second method bears some similarity to the surveillance method used in Ottawa. An officer sets up surveillance on the stroll, observes a pick-up, follows the prostitute and the customer, and when the customer has dropped off the prostitute, the officer "talks to the john." The vast majority will make a statement regarding the act and amount paid. The customer is usually not charged, but on the basis of his evidence a warrant is requested for the prostitute in order to prevent continuation of the offence. A uniformed officer serves the warrant, thereby keeping the identity of the investigating officer from the prostitute.

In addition, policewomen decoys have been used to charge customers of female prostitutes. The policewoman stands in the prostitution area and speaks to customers as they approach. (She is not usually wired.) After a discussion establishing the act and the price, the policewoman gets into the customer's car and instructs him to drive to a secluded parking lot in the downtown area. There, back-up officers approach, identify themselves, and inform the customer he is charged. The policewoman does not reveal her identity, and police pretend to charge her as well as the customer. This is done to avoid "burning" the policewoman, and to prevent other potential customers from becoming aware that a police action is being undertaken on the stroll. More recently, because of considerations of safety, the practice of permitting the policewoman enter the customer's car has been stopped.

Prostitutes in London are easy to charge, according to police interviewed. They use no or very few counter-measures to check out whether a potential customer is an officer. A few may ask if the man is police, or pat his sides for a weapon. "Touching techniques" have not been encountered.

Since London customers and the public as a whole are unaware that undercover policewomen have been used to charge johns, no counter-measures are employed by customers.

Prostitutes with prior charges are brought before a justice of the peace for a show cause hearing. Others are summonsed. Those who are show caused are usually given area restrictions, and if the offence occurred late at night, a curfew. Police report that the conditions are generally obeyed, and very few s. 133s (violating an undertaking) have been laid.

The addition of one officer to the vice unit is attributable to Bill C-49, but no other organizational changes have been required and costs to the Force have not been large. Officers use their own cars when acting as customers, so no rental costs have been incurred. Although no estimates of costs were available, a senior officer reported that the legislation has resulted in some court time for line officers, and part of the cost of the surveillance van (used to obtain intelligence on the East End and Victoria Park areas) is attributable to enforcement of s. 195.1.

Officers were satisfied with Bill C-49 and viewed its provisions as providing them with the necessary authority to control female (but not male) street prostitution in London. Most police could see no need for amendments but one officer suggested that the law be made dual procedure to permit charging on

"reasonable and probable grounds." Currently, officers easily blow their undercover status by the "found committing" nature of the offence.

The names of customers are published locally and this practice is seen as an effective deterrent.

2. Charges and Case Outcomes

In 1986 the London police laid 34 charges under s. 195.1 and in the second year laid 65 charges (Table VIII.7). About three-fifths of persons charged in 1987 were customers and two-fifths were prostitutes. Of the 27 charges laid against prostitutes, 4 involved male hustlers and 3 a "she-male" (a transvestite-transsexual who is a repeat offender).

TABLE VIII.7

CHARGES UNDER S. 195.1: LONDON POLICE STATISTICS, 1986-87

	1986	1987
	(percentages)	
Prostitute	not known	41.5
Customer	not known	58.5
Total per cent	-	100.0
Total number	34	65

Source: London Police Force

Prostitutes were older than those working in Toronto: just less than one half of London prostitutes were 17 to 24 years, compared with about three-quarters in Toronto. Customers were more similar in age to Toronto customers; 55 per cent were 34 years or younger, and about one-quarter were 45 years or

older.

Of the 15 prostitute charges where the court proceedings had ended at the time of data collection, 13 resulted in a conviction and 2 charges were withdrawn. Of the convictions, seven charges resulted in jail terms of one day to three months. The longest custodial sentence was received by the "she-male" who, according to police, has a bad glue sniffing habit and a number of priors. Five prostitutes were fined between $100 and $300, and one was put on probation with a suspended sentence.

Of the 26 customers whose court process had been completed, 25 were fined between $50 and $500, and one customer received an absolute discharge. Thirteen of the 25 customers were required to pay $50 to $100.

3. Changes in the Practice of Prostitution

Police portray street prostitution in London as well under control. All officers believe that the law, and more importantly, police enforcement, have greatly reduced the visibility of female prostitutes. Fewer merchant complaints have been received, in part because prostitutes have moved from the main street and now tend to work the area's side streets, parking lots and lanes outside most people's view. At any given time, there may be one to six women working the East End, from late afternoon to after the bars close. There is a nucleus of about 20 women, all of whom are local residents – police report no in- or out-migration of female prostitutes.[4]

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[4]However, it was suggested that a few women may have moved to Toronto when enforcement first interfered with their work in London. More recently, though, no inter-city mobility has been observed.

According to police, several women have stopped working the streets because of being charged, relying instead on their regulars and working out of their homes. Some women may have moved to bars or hotels, but there are relatively few "bar girls" in the city. Because most or all of the escort services in London have been charged and closed as a result of large-scale police investigations in the past year or two, there has been no movement to escort agencies.

The officers interviewed did not believe that the law or its enforcement in London had had negative effects on the police-prostitute relationship, the degree of danger in the work, or on the ability of pimps to control street prostitution. With regard to the latter point, all women in London are said to be "independents" (not pimped). There are few young offenders working the city, and their number has not changed with the law.

In summary, the London street prostitution trade has markedly declined, especially in the second year of the law, when enforcement was intensified.

CHAPTER IX:
OVERVIEW OF THE IMPACTS AND EFFECTS OF BILL C-49

This chapter presents the evidence with regard to three intended impacts of Bill C-49, and to several effects that were not intended, although they were in most instances predicted by critics of the legislation:

- a reduction in the number and visibility of street prostitutes, and the deterrent effect of the law on consumer behaviour;
- equal application of the law to male and female prostitutes, and to their customers;
- the ease of application of the law by the police and the courts;
- predicted but unintended effects: displacement to off-street services, an increase in the amount of danger encountered by street prostitutes, a deterioration in the relationship between police and street prostitutes, and an increase in the power of the pimp; and
- other effects: the cost of implementation by the police and the development of community organizations to combat street solicitation.

Most emphasis is placed on the findings from Toronto, but as appropriate, the results from the other Ontario cities visited for the research (Ottawa, Niagara Falls and London) are also provided.

A. REDUCTION IN THE AMOUNT OF STREET SOLICITATION

The overarching objective of Bill C-49 is to eliminate or at least reduce soliciting to public places, especially in residential and other areas that prompt citizen concern, such as near schools. This section examines the evidence on the

changes in the total number of working prostitutes and their visibility, and on changes in the number of customers.

1. The Number and Visibility of Street Prostitutes

Toronto police have been able to identify between 1,200 and 1,500 street prostitutes working in Metropolitan Toronto since police started to track prostitutes in 1986.[1] Police and social agency estimates obtained by Fleischman (1984: 61) suggested that there were 1,500 to 2,000 prostitutes working at that time in the summer. Given the propensity to exaggeration on this topic, the actual numbers working pre- and post-law may not appreciably differ.

For the total number of street prostitutes to have been reduced, one or more of the following pre-conditions would have had to occur: prostitutes would have had to move from the street to off-street locations; they would have had to retire from the business; the movement of newcomers into the occupation would have had to diminish; or the amount of positive net migration from the city would have had to increase.

We have no information on the fourth factor listed above – the positive net migration of prostitutes – but there is some information on the other three phenomena. Police report that prostitutes have not moved in large numbers to off-street locations. There is no evidence that substantial numbers of prostitutes have retired together. The entry of newcomers into the business has probably not greatly altered; although police charge statistics show that there were fewer

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[1]However, police may be overestimating the number of prostitutes working in late 1987. Police have no means of knowing when prostitutes retire from the business or migrate out of the city. It is probable that some prostitutes identified by police (and hence are counted in the 1,500 total) have turned to other occupations or moved elsewhere.

persons under 18 years working in 1987 than in 1986, the percentage reduction is not large. The weight of the evidence therefore suggests that while the total number of prostitutes *may* be slightly reduced, the decrease is not large enough to have a noticeable impact on the amount of street solicitation in Toronto.

Obviously, the *visibility* of street solicitation is closely linked with the *total number* of working prostitutes. For the visibility of street soliciting to have diminished, there would have to be *either*:

(a) a decrease in the total number of street prostitutes – which we have argued above has probably not occurred to a great extent; *or*

(b) prostitutes' working habits would have had to change in the direction of reducing their visibility to the local citizens: prostitutes would have to work less now than they did pre-law; they would have to work at hours less likely to be observed by the ordinary citizen and police; or they would have to move from their traditional areas and disperse throughout the city. The evidence for these three possible changes can be briefly presented.

First, according to prostitutes with pre-law experience, most prostitutes have not reduced their work week since December 1985; only one-quarter reported that they worked less often than they did pre-law. A comparison of prostitute interview data obtained by Fleischman in 1984, with our 1987 interviews, shows that the number of days worked per week is very similar. Second, about two-fifths of prostitutes interviewed in 1987 said they had changed the time of day they worked, but in the direction of increasing their visibility – many work more in the day and early evening than in the past. Third, there is little or no evidence that soliciting has dispersed to new areas. Although we were told of, and indeed observed, women working in locations as far from existing strolls as Bloor and Christie, Danforth and Victoria Park, and on Kingston Road in Scarborough, no knowledgeable respondent reported substantial numbers of street prostitutes on newly developed "mini-strolls." It is true, however, that some of the major

Toronto streets have fewer street prostitutes on them than before December 1985.

The obtrusiveness of street solicitation is another aspect of visibility that we can address. Although no pre-legislation data are available, the street observations undertaken for this research found that most prostitutes most of the time have an unobtrusive demeanour. On the other hand, the common practice of working in groups of two to four women greatly increases their visibility to passersby. Their density per square yard of curb space is sometimes high.

In summary the evidence of the impact of the anti-soliciting legislation on the amount of street solicitation in Toronto suggests that:

(a) In central city Track I (female prostitutes), there probably has been little or no reduction in the total number of street prostitutes. There has been, however, a post-law shift to the east in some of the streets worked by prostitutes. Fewer women work on Yonge and Church streets. This shift has led some citizens to believe that the numbers have decreased,[2] and precipitated concern among others because the shift has involved movement to residential streets. (The eastward movement did not create new strolls, but merely increased activity on existing strolls.)

By the spring of 1988 vigorous police enforcement on the downtown strolls had not been successful in dislodging the women from their traditional milieu. The core of the city has been a street prostitution area since at least the turn of the century. It may be that no amount of enforcement would completely eliminate street soliciting from the area.

Counts of street prostitutes working in Track I in 1987 found that the largest number working at any one time was 44 persons. These were spread – not evenly of course – over an area of about half a square mile.

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[2]One-half of the respondents to the citizen survey who lived in Track I reported a reduction in the number of prostitutes in the area.

(b) In Track II (male prostitutes) there is no change or perhaps an increase in the number of prostitutes. Perhaps because there has been less public concern expressed about the hustler area, enforcement in Track II has been sporadic and resulted in relatively few charges. Even if police activity had been greater it is possible that it would not have removed the male prostitute from *his* traditional location.

The largest number of hustlers observed in Track II's three to four block area was 27 persons.

(c) On Queen Street West there has apparently been some decline in numbers, since the retrospective observation of a number of respondents suggest that fewer women work the track than in 1984-85. It is uncertain whether the change is the result of police enforcement or the legislation. Police enforcement on Queen Street has involved customers to a greater extent than prostitutes, although an argument could be made that prostitutes moved because their business was down.

Counts of street prostitutes in 1987 found a maximum of 22 women working at one time on the two miles of Queen Street between Bathurst and Roncesvalles.

(d) The post-law period saw the growth and then the demise of a third street prostitution area in the City of Etobicoke, six miles west of the centre of Toronto. Although women worked on the Lakeshore in the year preceding the passage of C-49, there was an apparent increase in number after the law was passed. It may be that the growth of street prostitution on the Lakeshore in the summer of 1986 was partly the consequence of some prostitutes attempting to find a hassle-free alternative to downtown and Queen Street West. The attempt was short-lived. By the summer of 1987 there were very few street prostitutes working the motel strip. The reduction was presumably due to intensive police activity, including the laying of communicating charges, the extensive detention of prostitutes, bail conditions such as area restrictions, and the use of provincial trespassing laws to prevent them from working on motel property. Another factor may have contributed to the abandonment of this area – it may be that there is a tendency to return to the more traditional areas when under police pressure.

The highest count on the Lakeshore was three prostitutes in June 1987; subsequent observations found no women working the street.

2. Deterrence of Customers

The consumers of street sex are the other half of the street solicitation equation. Indeed, some would argue that customers create more problems than prostitutes. Customers cruise the strolls, generally in cars, looking for prostitutes, causing traffic problems and making residents of the street uncomfortable. This discomfort is, of course, greatly exacerbated when customers mistakenly proposition residents. In comparison, the behaviour of prostitutes is relatively inoffensive.

Prostitutes interviewed in Track I and Queen Street West believed that business had gone down for themselves and their acquaintances since the legislation was passed. In their view there were fewer customers and the change was largely because of the law (although AIDS was sometimes cited as a factor). Many reported that prostitutes' incomes had decreased as a result. There is clearly no way of establishing how reliable their perceptions are. Business people often complain that "business is bad" and speculate on the reasons for this. Of our respondent groups, the prostitute is probably the most reliable and knowledgeable on the issue of changes in the number of customers. We suggest that it is very likely that some customers have been deterred by the law – perhaps particularly the casual user of street services.

Police interviewed were equally divided between those who believed that the legislation functioned as some (often slight) deterrent to customers, and those who believed that the law had no deterrent effect.

At least some customers are not easily deterred. Many officers provided anecdotal evidence on the persistence of johns. Every sweep produces one or more customer who "cracks" twice in one evening, often only a few minutes apart, to an undercover policewoman.[3] On one sweep, a customer propositioned three different police officers, thereby accumulating three charges of communicating. Customers have been blind to the presence of TV cameras and the (apparently) obvious presence of male officers – and approached policewomen decoys.

In summary, there is no unequivocal answer to the question of the deterrent effect of C-49 on the behaviour of customers. It is probable that an unknown number of customers have ceased their street solicitation activities because of their liability for prosecution under s. 195.1. On the other hand, there is still a very substantial number of customers on the strolls, as the number of arrests in late 1987 and early 1988 show.

3. Ottawa, London and Niagara Falls

In all three cities, police reported a reduction in the total number of working prostitutes and a decrease in the visibility of street prostitution. Police believe that the publication of the customer's name in local news media may have had a greater deterrent effect than did the threat (or actuality) of being charged, attending court and receiving a sentence.

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[3]One customer showed the policewomen decoy his just-received appearance notice to prove that he was not a police officer.

B. EQUAL APPLICATION OF THE LAW

Another purpose of Bill C-49 was to remove any earlier ambiguity with regard to the status of the customer. As a result of C-49, the customer is now liable for prosecution. This section highlights the evidence presented earlier on the extent to which police and the courts have applied the law equally – against customers and prostitutes, and against male and female prostitutes – in each of the four cities surveyed.

1. Charging Practices

Table IX.1 shows the proportion of customers in the total charges laid by police in Toronto, Ottawa, Niagara Falls and London. More than one-half of the charges laid by the London Police Force involved customers; in Toronto the proportion was about 45 per cent; in Niagara Falls it was 38 per cent; and in Ottawa only 26 per cent.

In Toronto, police divisions place varying emphases on charging customers. Personnel availability may contribute to the differences, but the views of the unit commander are also important. Some senior officers believe that the key to reducing street prostitution is to reduce the number of buyers of street sex. In the second year of the law, enforcement against customers intensified. If it were not for this change in practice, the Toronto picture would have been very different from that shown in Table IX.1.[4]

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[4]In 1986 official police statistics show that 36 per cent of persons charged were men, most of whom were customers.

TABLE IX.1

PROSTITUTES AND CUSTOMERS CHARGED UNDER S. 195.1: TORONTO, OTTAWA, NIAGARA FALLS AND LONDON

	Toronto	Ottawa	Niagara Falls	London
	1986-87	Jan. 1986 - Oct. 1987	Jan. 1986 - Oct. 1987	1987
		(percentages)		
Prostitutes	(55.0)	74.2	62.4	41.5
Customers	(45.0)	25.8	37.6	58.5
Total per cent	100.0	100.0	100.0	100.0
Total number	5,368	314	197	65

Note: The Toronto data are estimates.

The availability of policewomen to act as prostitute decoys plays a role in differential charging of prostitutes and customers, as do the attitudes of senior personnel and the willingness of police departments to use policewomen in this role. All four police departments are somewhat handicapped by the relatively few women in plainclothes. Consequently, enforcement units must borrow the services of uniformed officers who are usually less experienced and (in smaller cities) few in number.

The second issue related to "equal application" is the charging of male prostitutes. In Toronto and Ottawa, relatively few charges involved hustlers (5 per cent in Toronto; 4 per cent in Ottawa).[5] Our observations in Toronto found that the number of male prostitutes on the street at one time was sometimes similar to the number of women in the much larger Track I. Our sample of Toronto arrest statistics show that about 17 times as many female as male prostitutes were charged in Toronto in 1986-87.

Interviews revealed that many police officers are reluctant to act as customer decoys in the male prostitution areas. In Toronto, there is no apparent reluctance to charge transvestites/transsexuals who work outside Track II: more transvestites than male prostitutes were charged, even though there are far fewer prostitutes who dress as women than male hustlers. This suggests that simplistic explanations – such as homophobia and fear of AIDS – may not fully explain police inattention to Track II. Senior officers indicated that one reason that male prostitution has received less priority is its location (i.e., fewer complaints from citizens).

No customers of male prostitutes have been charged in the hustler track in Toronto. A senior officer remarked that it would be difficult to find officers sufficiently hustler-like in appearance to act as decoys.

2. Sentencing Practices

In Toronto the statistical analysis of data on sentencing patterns suggests that prostitutes are dealt with more severely than customers, but the differential

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[5]Prostitution by males is not perceived as a problem in Niagara Falls. In London, of the 27 charges involving prostitutes in 1987, 4 were laid against males and 3 were laid against one transvestite-transsexual.

decreased somewhat in 1987 compared with 1986. (See Chapter IV.)

3. Summary

In Toronto and London, about one-half of charges were laid against customers, but in Niagara Falls and Ottawa, Bill C-49 was less equally applied to customers and prostitutes. Although there are no reliable estimates of the number of male prostitutes in Toronto, they appear to be greatly under-represented in the charge statistics, as are their customers. Analysis of sentences in Toronto suggests that prostitutes may be dealt with more severely than their customers.

C. THE EASE OF APPLICATION OF BILL C-49

A third objective of the revised s. 195.1 is to improve the ability of police to charge persons for soliciting in public and of the Crown to obtain convictions.

In the view of most police interviewed, subsection (c) of s. 195.1 provides an easy and expeditious method of charging prostitutes and customers through the use of customer and prostitute decoys. The evidentiary requirements are regarded as straightforward.

There are, however, a number of defects in the legislation from the perspective of police:

- It is expensive to implement because of the need to use plainclothes officers and (often) rental cars.
- In smaller communities and in small police divisions in large cities, officers and cars become "burned" (recognized) quickly and their usefulness in enforcement declines.
- More verbally skilled or more experienced prostitutes can evade the police by not naming a sex act and its price in their conversations

with customers.

- Identification of prostitutes is problematic as many lie about their identity – a factor that contributes to bench warrants and an inability to provide the court with an accurate prior record.

For these reasons, a number of police departments in Canada, including the Metropolitan Toronto Police Force, have recommended to the federal Department of Justice that the offence be made dual procedure (hybrid) and that the legislation make clear that charges can be laid on "reasonable and probable grounds."

Bill C-49 has been termed a "prosecutor's dream" – it is difficult to raise a successful defence on a point of law, so that most defences rest on the facts of the case. Relatively few persons charged under s. 195.1 pleaded not guilty in Toronto (8 per cent of prostitutes; 11 per cent of customers), a finding that suggests that the defence bar has not taken an aggressive stance in attempting to obtain acquittals.

Conviction rates for prostitutes in the four Ontario cities range from 80 per cent to 90 per cent and those for customers were similarly high, from 75 per cent to 100 per cent (Table IX.2). In some cities, the conviction rates of prostitutes may be even higher than these data suggest; some prostitutes are not convicted on their soliciting charge only because it is withdrawn as a result of a conviction on other charges arising from the incident.

TABLE IX.2

CONVICTION RATES OF PROSTITUTES AND CUSTOMERS: TORONTO, OTTAWA, NIAGARA FALLS AND LONDON

	Toronto Jan. 1986 - Aug. 1987	Ottawa Jan. 1986 - Oct. 1987	Niagara Falls Jan. 1986 - Oct. 1987	London 1987
	(percentages)			
Prostitutes	82	80	90	87*
Customers	93	75	84	100**

* There were 13 convictions out of 15 charges.

** There were 26 convictions out of 26 charges.

Perhaps because of the ease with which subsection (c) of 195.1 has been implemented, in most cities subsections (a) and (b) have not been used at all, or used only minimally. The consensus of respondents commenting on the topic appears to be that they are difficult to prove in court and not clearly written.

The definition of a car as a public place has been of moderate assistance to the police responsible for enforcement of C-49. In Toronto about one-fifth of prostitutes communicated with an undercover officer while in his car. Police in the other cities surveyed for this research also find the definition useful.

It is worth noting that police in two cities – Ottawa and London – have obtained convictions using the "surveillance method." Although more time consuming than the use of decoys, the method (which involves observing an apparent offence and taking a statement from one or both of the prostitute and customer) avoids "burning" undercover police officers.

D. PREDICTED BUT UNINTENDED EFFECTS

The critics of C-49 predicted the following unintended and undesirable effects of the law: displacement to off-street and more dangerous locations, an increase in the amount of danger faced by street prostitutes, a deterioration in the police-prostitute relationship, and an increase in the degree of pimp control over the street sex business.

1. Displacement and Danger

As a result of Bill C-49, a limited number of street prostitutes probably left the business to work off-street, especially in escort agencies. Most respondents agreed that the number who made this change make up a relatively small proportion (perhaps 10 per cent) of the total number of street prostitutes.

There has been a growth in the number of escort services in Toronto since the law, and especially in the number of independent sellers of sexual services. Whether this growth is directly attributable to the legislation cannot be assessed. (We do, however, have suggestive evidence that most customers of street prostitutes are unlikely to be able to afford off-street services.) Nor do we know if the escorts and the independents find their work more dangerous than those who continue to work on the streets.

We have already addressed the question of displacement to more dangerous, out-of-the-way locations. Police rejected the speculation that the business has gone underground or that large numbers of street prostitutes have dispersed throughout the city to unknown and hence more dangerous venues. Prostitute interviews supported police perceptions.

Critics anticipated that street prostitution would become more dangerous for its practitioners because after the law, to avoid unwelcome police attention, prostitutes would stop working in teams and spend less time checking out their customers. If anything, more women work together now – perhaps because one of the women will recognize a customer as an undercover officer. Police report that women probably spend more time checking out their customers than in the past – again, because they want to ensure that they are not plainclothes police.

This is not to conclude that the law has had *no* effect on the feelings of safety among street prostitutes. Three-fifths of all prostitutes interviewed had experienced recent violence, or threats of violence, mainly from customers. One-quarter of prostitutes felt less safe when at work than they had before the law; respondents from Track I were especially likely to report that they felt less safe (44 per cent did so). A number of women commented that, for some reason, there were more "weirdos" around now.[6] Unfortunately, we have no way of verifying their impressions.

Thus, a substantial minority of street prostitutes reported that the danger of the street has increased. (This view was also shared by social agency personnel, but not by police.) It may be that the omnipresent threat of being busted has created feelings of apprehension among street prostitutes, and this unease has been projected onto others in their milieu, especially customers.

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[6]Although *highly* speculative, it is possible that the law and its enforcement have made the weirdos more visible to prostitutes – by deterring the more "respectable" customers, the weirdos now make up a larger proportion of the total customer population than they did pre-law.

2. Deterioration of the Police-Prostitute Relationship

It was predicted that prostitutes would trust police less after the law was enacted and that they would be less willing to call police when they experienced violence. By withdrawing from the protection offered by police, they would be at greater risk from customers.

Three-quarters of prostitutes with pre-legislation street experience reported that their relationship with police had not altered, a small proportion said it had improved, and about one out of six said it had worsened. The finding that only a minority of prostitutes believed that their relationship had become worse does not mean that Toronto prostitutes like, trust or rely on police. One-half made a negative comment when asked how they felt about plainclothes officers. One-half of prostitutes who had recently experienced a bad date had not called police. On the other hand, several women spontaneously mentioned that they had a friend at such-and-such division, whom they could call whenever in trouble. (This is not necessarily disinterested behaviour on the part of police; they may encourage the woman to call because they use her as an informant and/or because they hope to persuade her to "sign on" her pimp.)

It is possible that as several police officers indicated, the relationship between police and prostitutes is related to the attitudes of the individual officer and prostitute. A proportion in both occupations have little respect for the other, and the law has not changed their views. A few officers believed that their relationship with prostitutes had improved because now the law gave police more opportunity to get to know prostitutes.

In summary, in the opinion of the majority of police and prostitutes interviewed in Toronto, the nature of the police-prostitute relationship has not

been disrupted by the law. A minority of prostitutes believe that the relationship has deteriorated and become "more bitter."

3. Control of the Street Business by Pimps

Critics warned that prostitutes would be more easily ruled by pimps because pimps would be able to offer previously unneeded services, such as connecting women with customers, bailing them out of jail and paying their fines.

It is a firm belief of police and social agency staff that prostitutes are reluctant to acknowledge to outsiders that they have a "man" or a pimp. In our research, about one-quarter of respondents said they had had a pimp since the law came into effect; most of this group said they no longer had one.[7] No prostitute reported that her pimp provided the services listed above and no one made a comment to the effect that the legislation had necessitated her getting a pimp.

When prostitutes with pre-law experience were asked to comment on the role of pimps in general (as opposed to their own experience), one-quarter believed that their acquaintances had to rely more on pimps, and the same proportion agreed that there were "more pimps around this summer than there used to be."

A minority of police similarly believed that there appeared to be more pimps in the city, but few directly attributed the increase to the communicating legislation.

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[7]Only 9 per cent of prostitutes interviewed on Queen Street West, but 40 per cent of those in Track I, acknowledged that they had a pimp since January 1986 (Table V.49 in Appendix B).

Again, the evidence is mixed with regard to this impact of the law on the street sex business. Whereas the majority of prostitutes and police had observed no significant change in the role of pimps, there was a minority in both actor groups who had seen an increase in the degree of control exerted by pimps.

E. OTHER EFFECTS OF BILL C-49

The anti-soliciting legislation has had two effects which were not anticipated, as far as we are aware: the cost of implementation and the development of citizens' groups.

The law has been expensive to implement in Toronto. The use of undercover police officers for routine enforcement and the large-scale sweeps is costly, as is processing the charges. The Toronto Police Force estimates the cost of undercover personnel and their equipment to be in the range of $1.8 million per year. This may be an underestimate because it does not include the time of officers who enforce the law on a part-time basis (e.g., on the sweeps). Police estimate the total budget for controlling street solicitation – including the cost of the foot patrol officers added to the Force at the request of citizens and politicians – to be about $6.3 million annually.

The second unanticipated impact of the law was the mobilization of the community affected by street prostitution. Several community activists commented in interviews that the passage of C-49 had initially raised their expectations that street soliciting would be eliminated. When it became apparent that there were few, if any, changes in a positive direction in the Track I situation, new community organizations were formed. Their lobbying efforts at the municipal level resulted in environmental design changes in affected neighbourhoods – better

street lighting and changed traffic patterns. Traffic rerouting has appeared to reduce john traffic in at least one of the residential strolls in Track I. Residents' hooker patrols and harassment of customers also helped to reduce the amount of street soliciting in the same stroll.

These activities of community members were precipitated by their disillusionment with the (lack of) effect that police enforcement of Bill C-49 was having on soliciting in their neighbourhoods. Their efforts to reduce the number of prostitutes and customers by environmental design changes and citizen patrols are independent of the legislation. Their mobilization would presumably have had the same result (i.e., a decrease in the number of prostitutes and customers) even if the legislation was not on the books.

F. SUMMARY

Figure IX.1 shows the relationship between the specific objectives of the amended s. 195.1 and the mechanisms by which the major goal of the legislation was to be achieved.

In Toronto the police view the law as easy but costly to apply. Bill C-49 has been intensively enforced by the Metropolitan Toronto Police Force in the areas of female street prostitution. Although male prostitutes and their customers are greatly under-represented in charge statistics, customers and prostitutes have been charged in approximately equal proportions. In total, almost 5,400 charges were laid in 1986 and 1987. Conviction rates for both prostitutes and customers have been very high. While the sentences imposed by the courts were initially light, especially for johns, they have recently increased in severity.

Even though the implementation of C-49 has been a "success" in Toronto – as measured by the (relative) ease with which the law has been applied, the number of charges laid by police, the conviction rates and increasing severity of sentences – this has not been reflected on the street. There is no clear evidence that the total number of prostitutes has decreased. Although the visibility of street prostitution may have diminished in the perception of the "ordinary citizen" because of some movement of prostitutes from main arteries to side streets, the change in location has raised the concern of other citizens because of an apparent increase in street solicitation in several downtown residential areas.

The total pool of customers of female street prostitutes has probably been reduced as a result of the law and the publicity surrounding its enforcement. Despite this probable decrease, there has been no appreciable reduction in the number cruising the strolls at any given time.

There has been some displacement of prostitutes from the street to off-street locations, but most respondents believe that it has been minimal. There has been no large dispersal of soliciting to new, non-traditional areas of street prostitution.

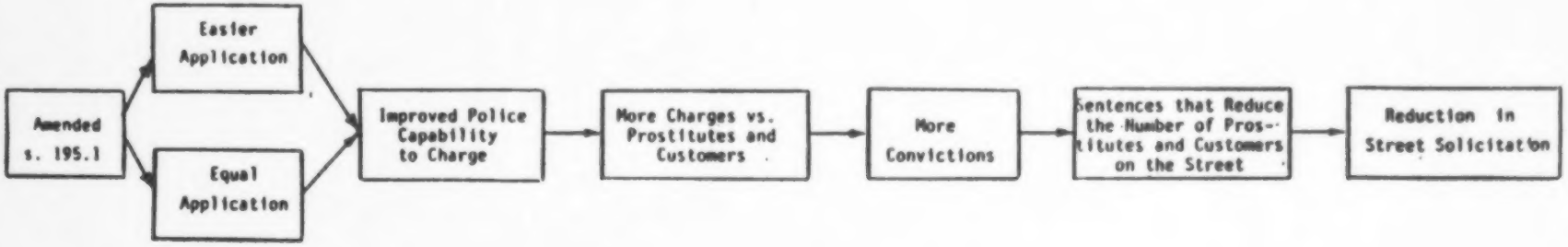
The evidence indicated that Bill C-49 has had no major negative impacts on the working conditions of street prostitutes. Most prostitutes and most police believe that the work is not more dangerous, that pimps have not increased in number or power, and that prostitutes are not completely alienated from police and social agencies. On the other hand, a significant minority of prostitutes with pre-legislation work experience did report that street conditions had changed, although few could directly attribute the changes they perceived to C-49 or to police enforcement.

FIGURE IX.1

OVERALL INTENDED IMPACT OF BILL C-49:

REDUCTION OF PUBLIC NUISANCES ASSOCIATED WITH STREET PROSTITUTION

THE MECHANISM BY WHICH THIS IMPACT WAS TO BE ACHIEVED



Outside Toronto in the other three Ontario cities surveyed for this evaluation, the law was perceived as more successful in reducing the amount and visibility of street solicitation. Few negative side effects on the street prostitution business had been observed by criminal justice officials. In Ottawa, Niagara Falls and London, police believed that Bill C-49 was an effective tool in combatting street prostitution. As in Toronto, however, there was a consensus among police forces that the legislation should be made a dual procedure offence in order to improve their ability to identify prostitutes by fingerprinting and photographs. Some departments also recommended that there be mandatory minimum sentences for first, second and subsequent sentences.

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